

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

- - -

Harry G. Beyoglides, Jr.,
Special Administrator of the
Estate of Robert Andrew
Richardson, Sr., Deceased,
Plaintiff,

vs.

Case No. 3:14-CV-00158

Phil Plummer/Montgomery County
Sheriff, et al.,
Defendants

- - -

DEPOSITION OF MICHAEL SOLLENBERGER
the Defendant herein, called by the Plaintiff under the
applicable Rules of Civil Procedure, taken before me,
Whitney Layne, a Notary Public for the State of Ohio, at
the law firm of Dinkler & Pregon, 5335 Far Hills Avenue,
Suite 117, Dayton, Ohio 45429 on December 8, 2015 at
1:00 p.m.

LAYNE & ASSOCIATES
6723 COOPERSTONE DRIVE
DUBLIN, OHIO 43017
614-309-1669

<p>1 APPEARANCES</p> <p>2 NICHOLAS DICELLO, ESQUIRE</p> <p>3 SPANGENBERG, SHIBLEY & LIBER</p> <p>4 1001 Lakeside Avenue</p> <p>5 Suite 1700</p> <p>6 Cleveland, Ohio 44114</p> <p>7 on behalf of the Plaintiff</p> <p>8 JAMEY PREGON, ESQUIRE</p> <p>9 DINKLER & PREGON</p> <p>10 5335 Far Hills Avenue</p> <p>11 Suite 123</p> <p>12 Dayton, Ohio 45429</p> <p>13 on behalf of the Sheriff</p> <p>14 Defendants</p> <p>15 CARRIE STARTS, ESQUIRE</p> <p>16 ALYSS BAUTE, ESQUIRE</p> <p>17 REMINGER CO., LPA</p> <p>18 525 Vine Street</p> <p>19 Suite 1700</p> <p>20 Cincinnati, Ohio 45202</p> <p>21 on behalf of the Defendants</p> <p>22 NaphCare, Inc., Nurse Felicia Foster,</p> <p>23 Nurse Jon Boehringer, Nurse Krisandra</p> <p>24 Miles, Medic Steven Stockhauser,</p> <p>and Brenda Garrett Ellis, M.D.</p> <p>JOHN SMITH, ESQUIRE</p> <p>140 North Main Street</p> <p>Springboro, Ohio 45066</p> <p>on behalf of the Defendant</p> <p>Michael Sollenberger</p> <p>TODD AHEARN, ESQUIRE</p> <p>ASSISTANT PROSECUTING ATTORNEY</p> <p>301 West Third Street</p> <p>4th Floor</p> <p>Dayton, Ohio 45422</p> <p>on behalf of the Defendant</p> <p>Montgomery County Sheriff's</p> <p>Office</p> <p style="text-align: right;">Page 2</p>	<p>1 EXAMINATION INDEX</p> <p>2</p> <p>3 MICHAEL SOLLENBERGER</p> <p>4 BY MR. DICELLO.....Page 5</p> <p>5</p> <p>6 EXHIBIT INDEX</p> <p>7 Exhibit Marked</p> <p>8 5.....Page 47</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p style="text-align: right;">Page 4</p>
<p>1 December 8, 2015</p> <p>2 Tuesday Session</p> <p>3 1:00 p.m.</p> <p>4 - - -</p> <p>5 STIPULATIONS</p> <p>6</p> <p>7 It is stipulated by and among counsel for the</p> <p>8 respective parties that the deposition of MICHAEL</p> <p>9 SOLLENBERGER, the Defendant herein, called by the</p> <p>10 Plaintiff under the applicable Rules of Civil Procedure,</p> <p>11 may be taken at this time by the notary Whitney Layne;</p> <p>12 that said deposition may be reduced to writing in</p> <p>13 stenotypy by the notary, whose notes thereafter may be</p> <p>14 transcribed out of the presence of the witness; and that</p> <p>15 the proof of the official character and qualification of</p> <p>16 the notary is waived.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p style="text-align: right;">Page 3</p>	<p>1 MICHAEL SOLLENBERGER</p> <p>2 Being first duly sworn, as hereinafter</p> <p>3 certified, deposes and says as follows:</p> <p>4 CROSS-EXAMINATION</p> <p>5 BY MR. DICELLO:</p> <p>6 Q Could you please state your name for the record</p> <p>7 and spell your last name?</p> <p>8 A Michael Sollenberger, S-O-L-L-E-N-B-E-R-G-E-R.</p> <p>9 Q Mr. Sollenberger, my name is Nick DiCello. You</p> <p>10 understand you're here to have your deposition taken</p> <p>11 today?</p> <p>12 A Yes.</p> <p>13 Q By way of introduction, I represent the family</p> <p>14 of Robert Richardson who was an African American man who</p> <p>15 died in the custody of the Montgomery County Jail back in</p> <p>16 2012. Do you understand today's deposition is being taken</p> <p>17 in connection with that case?</p> <p>18 A Yes.</p> <p>19 Q And when I say "that case," I mean there's a</p> <p>20 lawsuit pending on behalf of Mr. Richardson and his family</p> <p>21 against the Montgomery County Sheriff's Office, some</p> <p>22 individuals, and then some folks at NaphCare and NaphCare.</p> <p>23 Were you aware of that lawsuit before today?</p> <p>24 A Yes.</p> <p style="text-align: right;">Page 5</p>

<p>1 Q How did you become aware of that lawsuit, sir?</p> <p>2 A My attorney contacted me.</p> <p>3 Q I'll make sure, caution you, try not to share</p> <p>4 any information that you and your attorneys talked about,</p> <p>5 okay?</p> <p>6 A (Nods head.)</p> <p>7 Q I don't want to invade on your attorney/client</p> <p>8 privilege. I know you have a pending litigation involving</p> <p>9 the county ongoing right now. Let me ask some questions</p> <p>10 about that and make sure I steer clear of what I need to</p> <p>11 steer clear of, okay?</p> <p>12 A Okay.</p> <p>13 Q Are you currently involved in litigation</p> <p>14 against the Montgomery County Sheriff's Office?</p> <p>15 A Yes, I am.</p> <p>16 Q And as a layman, I'm not asking you for any</p> <p>17 legal conclusions, but what is the basis of your claims</p> <p>18 against Montgomery County?</p> <p>19 A Invasion of privacy.</p> <p>20 Q And how is it that you believe that they</p> <p>21 invaded your privacy?</p> <p>22 A They downloaded content off of a cell phone.</p> <p>23 Q Is it a cell phone you owned or was it a cell</p> <p>24 phone that was issued to you by the county?</p> <p style="text-align: right;">Page 6</p>	<p>1 Q Can you tell me the dates of your first</p> <p>2 marriage?</p> <p>3 A From September 29th of 2001 to September 28th</p> <p>4 of 2015.</p> <p>5 Q And when in October did you get married?</p> <p>6 A October 9th.</p> <p>7 Q A short window of being single there; correct?</p> <p>8 A Yes.</p> <p>9 Q Maybe give me a little bit of the circumstances</p> <p>10 surrounding why you were married up through September 28th</p> <p>11 of 2015 and then married again about two weeks later or</p> <p>12 three weeks later.</p> <p>13 MR. SMITH: It's common for someone who doesn't</p> <p>14 understand how Montgomery County DR works.</p> <p>15 A Yeah, that's what I was going to say. It took</p> <p>16 over three years for my divorce.</p> <p>17 BY MR. DICELLO:</p> <p>18 Q Okay. And that helps me. So you were in the</p> <p>19 process of getting divorced going all the way back to</p> <p>20 2012?</p> <p>21 A Correct.</p> <p>22 Q Understood.</p> <p>23 MR. SMITH: You can have a trial and not get a</p> <p>24 decision for a year in this county.</p> <p style="text-align: right;">Page 8</p>
<p>1 A Personal cell phone.</p> <p>2 Q Is that the sum and substance, basically, of</p> <p>3 your dispute with the county?</p> <p>4 A Yes.</p> <p>5 Q Can I have a home address, Mr. Sollenberger?</p> <p>6 A 330 West First Street, Apartment 803. And</p> <p>7 that's in Dayton, Ohio, 45402.</p> <p>8 Q And you're currently represented in connection</p> <p>9 with this deposition by Mr. Smith and he's here in</p> <p>10 attendance with you here today; is that correct?</p> <p>11 A That's correct.</p> <p>12 Q How long have you been living at the 330 West</p> <p>13 First Street residence, sir?</p> <p>14 A Three years.</p> <p>15 Q Any plans to move in the immediate future?</p> <p>16 A No.</p> <p>17 Q What is your marital status?</p> <p>18 A Married.</p> <p>19 Q How long have you been married?</p> <p>20 A Since October.</p> <p>21 Q October of 2015?</p> <p>22 A Yes.</p> <p>23 Q Is that your first or second marriage?</p> <p>24 A Second.</p> <p style="text-align: right;">Page 7</p>	<p>1 MR. DICELLO: Yeah, believe me, I understand</p> <p>2 that issue. We deal with the same thing up in Cuyahoga</p> <p>3 County in Cleveland.</p> <p>4 BY MR. DICELLO:</p> <p>5 Q Mr. Sollenberger, are you currently employed?</p> <p>6 A Yes.</p> <p>7 Q Can you tell me a little bit about your</p> <p>8 employment currently?</p> <p>9 A I work for Allstate Insurance.</p> <p>10 Q And what do you do for Allstate?</p> <p>11 A Licensed sales producer.</p> <p>12 Q So you're in sales?</p> <p>13 A Uh-huh.</p> <p>14 Q How long have you been doing that?</p> <p>15 A Since October of this year.</p> <p>16 Q Ever been deposed before, sir?</p> <p>17 A During my divorce proceeding, yes.</p> <p>18 Q Ever testified in court?</p> <p>19 A Yes.</p> <p>20 Q How many times do you think you've testified in</p> <p>21 court over the course of your law enforcement career?</p> <p>22 A Hundreds.</p> <p>23 Q So I want to go over just a few ground rules</p> <p>24 for depositions. I know you understand how testimony in</p> <p style="text-align: right;">Page 9</p>

<p>1 court works very well and you've had some experience with</p> <p>2 depositions. But I'll ask the questions, you'll provide</p> <p>3 the answers; understood?</p> <p>4 A Yes.</p> <p>5 Q You've done a nice job until now, but you have</p> <p>6 to make your answers audible; yes, no, or words as opposed</p> <p>7 to uh-huhs and huh-uhs for the court reporter to take down</p> <p>8 what we're saying. Myself, Mr. Smith, or somebody else</p> <p>9 may remind you of that from time to time. If you say</p> <p>10 "uh-huh," I'll say, "Is that a yes?" It's not to be rude.</p> <p>11 It's just so make sure we get a clear record, okay?</p> <p>12 A Yes.</p> <p>13 Q If you don't understand a question that I've</p> <p>14 asked, I want you to tell me that, okay?</p> <p>15 A Okay.</p> <p>16 Q Given that agreement, if you answer a question</p> <p>17 that I've asked you, I'm going to assume you understood</p> <p>18 it; is that fair?</p> <p>19 A Yes.</p> <p>20 Q Do you understand you're under oath today?</p> <p>21 A Yes.</p> <p>22 Q As somebody who has a background in law</p> <p>23 enforcement, and we'll talk about that, do you have a</p> <p>24 general understanding of what the penalties are for lying</p> <p style="text-align: right;">Page 10</p>	<p>1 the truthfulness of your answers in connection with the</p> <p>2 matter in which I'm involved on behalf of the Richardson</p> <p>3 family. Do you understand that?</p> <p>4 A Yes.</p> <p>5 Q What did you do, if anything, and again,</p> <p>6 remember I'm not interested in the substance of</p> <p>7 conversations you had with any attorneys, but what have</p> <p>8 you done, sir, if anything, to prepare for today's</p> <p>9 deposition?</p> <p>10 A I looked at the scene log that was provided to</p> <p>11 me.</p> <p>12 Q Anything else?</p> <p>13 A The incident report was also provided to me,</p> <p>14 but I didn't generate any incident report, so I didn't</p> <p>15 review any of those. The only thing I saw was my name</p> <p>16 appeared on the scene log.</p> <p>17 Q Independent of reviewing the scene log and any</p> <p>18 other documents you mentioned you may have reviewed, do</p> <p>19 you have a memory of your involvement with the situation</p> <p>20 involving Robert Richardson's death back in May of 2012?</p> <p>21 A Yes.</p> <p>22 Q And let's just start off kind of generally.</p> <p>23 What do you remember about that incident and your</p> <p>24 involvement?</p> <p style="text-align: right;">Page 12</p>
<p>1 under oath?</p> <p>2 A Yes.</p> <p>3 Q And what's your understanding of what those</p> <p>4 penalties are, criminal and civil?</p> <p>5 A Perjury.</p> <p>6 Q You understand the concept of perjury?</p> <p>7 A Yes.</p> <p>8 Q You understand that the oath you've taken to</p> <p>9 tell the truth here today will be the same oath that you</p> <p>10 take in a court of law in front of a jury and judge. You</p> <p>11 understand those are the same things; correct?</p> <p>12 A Correct.</p> <p>13 Q If you need a break at any time today, sir,</p> <p>14 this isn't an endurance contest, it may be short, it may</p> <p>15 be long, it's hard for me to predict, just let me know and</p> <p>16 we'll take a break for any reason. If a question is</p> <p>17 pending, I'd just ask that you answer the question first,</p> <p>18 and then say, "Nick, let's take a break" and we'll do</p> <p>19 that, okay?</p> <p>20 A Okay.</p> <p>21 Q Any reason why you wouldn't be able to answer</p> <p>22 truthfully today?</p> <p>23 A No.</p> <p>24 Q You understand that I'm going to be relying on</p> <p style="text-align: right;">Page 11</p>	<p>1 A I remember that there was, and I think from</p> <p>2 looking at the time, I may have already been home from</p> <p>3 work, and I was requested to go back to the county jail</p> <p>4 for an in-custody death. There was -- It occurred in D</p> <p>5 Pod, I believe it was, and -- and Mr. Richardson, it was?</p> <p>6 Q Correct.</p> <p>7 A I don't know if they -- if the coroner's office</p> <p>8 had already made a removal or not, but I know that the</p> <p>9 sheriff's office was beginning their investigation.</p> <p>10 Q Do you remember what involvement you had?</p> <p>11 A My involvement was very limited. The -- At the</p> <p>12 time, I was assigned to the Internal Affairs Division.</p> <p>13 Internal Affairs, one of the jobs of it was just to</p> <p>14 respond to any in-custody death and just kind of there,</p> <p>15 you're at the scene to be able to just make sure that</p> <p>16 information is being gathered correctly and that the</p> <p>17 appropriate people were notified and called and such.</p> <p>18 Q I want to ask some questions about your</p> <p>19 background. Some of these questions I'm sure are personal</p> <p>20 in nature. It's not to pry into your personal life, but</p> <p>21 it is to try to get a little understanding of your</p> <p>22 background, how it is that you came to be employed with</p> <p>23 the sheriff of Montgomery County, how you rose up through</p> <p>24 the ranks there, your job, that kind of thing. So let's</p> <p style="text-align: right;">Page 13</p>

<p>1 start back at the beginning. Mr. Sollenberger, are you</p> <p>2 from this area of Ohio?</p> <p>3 A Yes, I am.</p> <p>4 Q And did you attend high school in the local</p> <p>5 area?</p> <p>6 A Yes, I did.</p> <p>7 Q Can you tell me where you attended high school</p> <p>8 and when you graduated?</p> <p>9 A Northmont High School, graduated in 1991.</p> <p>10 Q Any formal education after graduating from</p> <p>11 Northmont?</p> <p>12 A Yes. I went to Sinclair Community College,</p> <p>13 graduated with an associate's degree in 1993, and then</p> <p>14 transferred to Ohio University and graduated with a</p> <p>15 bachelor's degree in 1995.</p> <p>16 Q And what degree did you obtain in '95 from OSU?</p> <p>17 A OU.</p> <p>18 Q I'm sorry, Ohio University?</p> <p>19 A Yes.</p> <p>20 Q Thank you.</p> <p>21 A A bachelor's degree in criminal justice with a</p> <p>22 minor in sociology.</p> <p>23 Q Did you pursue a career in criminal justice?</p> <p>24 A Yes, I did.</p> <p style="text-align: right;">Page 14</p>	<p>1 Q At the Montgomery County Jail?</p> <p>2 A Yes.</p> <p>3 Q How long did you work as a corrections officer</p> <p>4 at the jail?</p> <p>5 A For roughly about eight months. And then in</p> <p>6 February of '98, I was promoted to court officer.</p> <p>7 Q And then how long did you have the position of</p> <p>8 court officer?</p> <p>9 A The court officer back then in '98, they were</p> <p>10 separate. They were deputy sheriffs, but only assigned to</p> <p>11 the courts. Now, they're all deputy sheriffs. It was</p> <p>12 just different things. So I worked as a court officer</p> <p>13 from '97 until -- No, I'm sorry, from February of '98</p> <p>14 until April of 1999 when I was promoted to deputy sheriff.</p> <p>15 Q How did your position change once you were</p> <p>16 promoted to deputy sheriff?</p> <p>17 A I was no longer working the court detail as</p> <p>18 they refer to it. I was assigned to road patrol.</p> <p>19 Q How long were you on road patrol?</p> <p>20 A I was a deputy on -- a beat officer, I guess</p> <p>21 you could call it, for roughly about two and a half years.</p> <p>22 And then in 2001, I want to say it was the spring of 2001,</p> <p>23 I became an evidence technician.</p> <p>24 Q How long did you have that position?</p> <p style="text-align: right;">Page 16</p>
<p>1 Q Tell me how you went about pursuing a career in</p> <p>2 criminal justice upon graduating from OU.</p> <p>3 A After graduation, I came home, I attended the</p> <p>4 police academy in 1996. I graduated from the police</p> <p>5 academy in like November of '96, I think it was. My first</p> <p>6 job was in West Alexandria, Ohio as an auxiliary</p> <p>7 patrolman. I also worked then part-time as a patrolman in</p> <p>8 the Village of Lewisburg, and I was hired by the sheriff's</p> <p>9 office as a corrections officer in 1997.</p> <p>10 Q Okay.</p> <p>11 A June of '97.</p> <p>12 Q Why did you pursue a career in law enforcement?</p> <p>13 A When I got out of high school and started</p> <p>14 college, I was just taking a variety of classes, and those</p> <p>15 were the classes at the time that interested me and I</p> <p>16 pursued the career.</p> <p>17 Q Why did you move from being what I think you</p> <p>18 described as more of a police officer into the</p> <p>19 correctional field?</p> <p>20 A Well, the -- the patrolman positions were in</p> <p>21 small villages in Preble County and I wanted to work for a</p> <p>22 larger agency. And that's when I applied for the</p> <p>23 Montgomery County Sheriff's Office. And when I started, I</p> <p>24 was hired as a corrections officer.</p> <p style="text-align: right;">Page 15</p>	<p>1 A I was an evidence technician for almost five</p> <p>2 years.</p> <p>3 Q What does that job entail?</p> <p>4 A Crime scene investigation. You know, gathering</p> <p>5 evidence and fingerprints and photographs, that kind of</p> <p>6 thing.</p> <p>7 Q So that takes us up to about 2006?</p> <p>8 A Yeah. I think it was around 2005, 2006, I then</p> <p>9 became a detective doing criminal investigations.</p> <p>10 Q Describe what that job entailed.</p> <p>11 A When I started, I was assigned downtown, and I</p> <p>12 did -- basically they call it a utility detective, you</p> <p>13 just kind of got the fall-out stuff that came in, and I</p> <p>14 did the weekend processing, so any prisoners that were</p> <p>15 arrested, any felony cases that were arrested on the</p> <p>16 weekend, I processed them, interviewed them, presented the</p> <p>17 case to the prosecutor's office. And I did that for, I</p> <p>18 don't know, a few months. And then there was downsizing</p> <p>19 from the downtown investigations where they shifted all</p> <p>20 out to the different districts. And from there, I left</p> <p>21 and went to the Harrison Township substation.</p> <p>22 Q Okay. How long were you in the position of</p> <p>23 detective?</p> <p>24 A I was -- Well, I went out to the Harrison</p> <p style="text-align: right;">Page 17</p>

<p>1 Township substation. When I got out there, my duties</p> <p>2 changed. My primary role was financial crimes. I did the</p> <p>3 financials for a number of years. Again, there was -- I</p> <p>4 say "number of years," three or four years, three years.</p> <p>5 Again, there was some reassignment, realignment. I then</p> <p>6 took on a beat area, a specific geographical area, that I</p> <p>7 was responsible for investigating property crimes and such</p> <p>8 as well as doing the economic crimes in the township.</p> <p>9 And then in 2009, I think it was, it was either</p> <p>10 beginning -- yeah, I think it was the beginning of 2009, I</p> <p>11 was then reassigned to the Internal Affairs Inspectional</p> <p>12 Services Unit they call it.</p> <p>13 Q Can you describe that position for us, please?</p> <p>14 A The Inspectional Services Unit was responsible</p> <p>15 for investigating the complaints against the -- doing the</p> <p>16 internal investigations, the complaints that came in</p> <p>17 against staff members. Along with that, we were also</p> <p>18 responsible for doing the -- the inspections on all the</p> <p>19 districts and stuff. A lot of it was pertaining to our</p> <p>20 CALEA certification.</p> <p>21 Q Yep.</p> <p>22 A So we were responsible for doing a lot of that.</p> <p>23 And then the other aspect was also responding to all</p> <p>24 in-custody deaths.</p> <p style="text-align: right;">Page 18</p>	<p>1 Q You were investigating these in-custody deaths</p> <p>2 to determine if any, for lack of a better word, policies,</p> <p>3 procedures had been violated by your fellow Montgomery</p> <p>4 County Sheriff's employees; correct?</p> <p>5 A Correct.</p> <p>6 Q Of the eight in-custody death cases that you</p> <p>7 investigated, how many of those did you deem to involve</p> <p>8 violations of the rules by corrections force or other</p> <p>9 sworn personnel?</p> <p>10 A None.</p> <p>11 Q While you were in Internal Affairs, were there</p> <p>12 other in-custody deaths that were investigated by other</p> <p>13 folks, or are you telling me there was only about eight</p> <p>14 for the entire IA department during your tenure there?</p> <p>15 A There was probably only about eight, I'm</p> <p>16 guessing. Because like I said, one year I think there was</p> <p>17 only one or none. So I'd say maybe eight to twelve. I</p> <p>18 have no idea.</p> <p>19 Q Okay.</p> <p>20 A I don't want to --</p> <p>21 Q That's fine.</p> <p>22 A Okay.</p> <p>23 Q And I know you've qualified it by saying you</p> <p>24 don't know the exact number, but you said eight to twelve,</p> <p style="text-align: right;">Page 20</p>
<p>1 Q How long did you have that position in IA?</p> <p>2 A Roughly five years.</p> <p>3 Q So up through -- What was your -- What was the</p> <p>4 date that -- Is this the job you had up to the time you</p> <p>5 were terminated?</p> <p>6 A Yes.</p> <p>7 Q And what was your date of termination?</p> <p>8 A February. The beginning of february of 2015.</p> <p>9 Q So this year?</p> <p>10 A Yes.</p> <p>11 Q You indicated that as a detective in Internal</p> <p>12 Affairs you responded to all in-custody deaths; correct?</p> <p>13 A Yes.</p> <p>14 Q Can you give me an approximation, I'm not going</p> <p>15 to hold you to a certain number, but an approximation of</p> <p>16 how many in-custody deaths you were involved in</p> <p>17 investigating?</p> <p>18 A I think like -- One year we only had one or</p> <p>19 maybe none -- eight maybe?</p> <p>20 Q If I understand how IA works, but I'm asking</p> <p>21 you, you weren't investigating these in-custody deaths for</p> <p>22 purposes of presenting information to a prosecutor;</p> <p>23 correct?</p> <p>24 A Correct.</p> <p style="text-align: right;">Page 19</p>	<p>1 it could be more, it could be less, but of those that</p> <p>2 you're aware of that were ever investigated during your</p> <p>3 tenure at IA, are you aware of any investigations that</p> <p>4 resulted in a finding against a corrections officer or</p> <p>5 other sworn personnel?</p> <p>6 A No.</p> <p>7 Q Does that include the Robert Richardson</p> <p>8 situation?</p> <p>9 A Correct.</p> <p>10 And I'm sorry, if I can go back.</p> <p>11 Q Sure.</p> <p>12 A In one of the questions that you asked. I</p> <p>13 don't think I answered it because I was focusing on the</p> <p>14 number. But to answer it, no, I did not -- it would not</p> <p>15 have been solely my responsibility. There were other</p> <p>16 people in Internal Affairs. So of those eight to twelve,</p> <p>17 I would not have been the one responsible for all of them.</p> <p>18 Q Understood.</p> <p>19 So as an IA investigator who is investigating</p> <p>20 in-custody deaths, you have to be familiar with the jail</p> <p>21 policies and procedures; true?</p> <p>22 A Yes.</p> <p>23 Q You have to be familiar with the jail's</p> <p>24 policies and procedures as written concerning restraint;</p> <p style="text-align: right;">Page 21</p>

<p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q The jail's policies as written indicate that</p> <p>4 placing members of the community who are detained in the</p> <p>5 Montgomery County Jail, who are in restraints, handcuffs,</p> <p>6 in a prone position, is never an acceptable practice and</p> <p>7 is prohibited. That's what the policy states; true?</p> <p>8 A Without reviewing it, I'm guessing. There's --</p> <p>9 When you say I have to be familiar with it, yes, I do, but</p> <p>10 I'm sure you're aware that the jail manual is very in</p> <p>11 depth as well as the General Orders Manual, that's the</p> <p>12 sheriff's office, so you're talking two big books of it.</p> <p>13 So do I know them verbatim? No, I don't. But do I know</p> <p>14 where to -- do I know that I can go and research this</p> <p>15 information and find out an answer to a question? Yes.</p> <p>16 Q And I appreciate that. We have the manuals and</p> <p>17 the GOs and we've all been looking at them. But I want to</p> <p>18 understand what your general understanding is with respect</p> <p>19 to the use of prone restraint. Is it prohibited in the</p> <p>20 jail or is it permissible?</p> <p>21 A I can't answer that.</p> <p>22 Q Do you know what prone restraint is?</p> <p>23 A I would assume, from the -- I would assume it's</p> <p>24 being restrained in a prone position.</p> <p style="text-align: right;">Page 22</p>	<p>1 Department for Robert Richardson's death?</p> <p>2 A No, I don't. During my time in Internal</p> <p>3 Affairs, in the five years I was there, I had roughly six</p> <p>4 different partners. So during the time -- I'm sorry, what</p> <p>5 year was it?</p> <p>6 Q 2012.</p> <p>7 A Okay. I'm not sure who was assigned with me in</p> <p>8 2012.</p> <p>9 Q Were you responsible for investigating uses of</p> <p>10 force as an IA detective?</p> <p>11 A Yes.</p> <p>12 Q Is handcuffing someone with their hands behind</p> <p>13 their back and putting them on the ground in a prone</p> <p>14 restraint to restrain them considered a use of force?</p> <p>15 A No.</p> <p>16 Q It's not?</p> <p>17 A Not from what I'm aware of.</p> <p>18 Q Why not?</p> <p>19 A Because they're handcuffed and on the ground.</p> <p>20 Q So if you were to take someone -- if an officer</p> <p>21 takes someone down to the ground, forcibly moves their</p> <p>22 arms behind their back, handcuffs them, and then holds</p> <p>23 them down to the ground in a prone position, that's not a</p> <p>24 use of force by your definition?</p> <p style="text-align: right;">Page 24</p>
<p>1 Q What is a prone position?</p> <p>2 A I would imagine laying on the floor with your</p> <p>3 legs out.</p> <p>4 Q And where are the hands when -- have you ever</p> <p>5 heard of the term "prone restraint"?</p> <p>6 A Honestly, no.</p> <p>7 Q So I presume you were -- in all the training</p> <p>8 you received, nobody ever used the term "prone restraint"</p> <p>9 when giving you some training?</p> <p>10 A They may have. But I -- I don't know. I mean,</p> <p>11 it's -- prone restraint, it's being prone and being</p> <p>12 restrained. So I can't definitively say this is what</p> <p>13 prone restraint is.</p> <p>14 Q When you were investigating in-custody deaths,</p> <p>15 was it your responsibility to -- if the circumstances</p> <p>16 involved prone restraint, was it your responsibility to</p> <p>17 determine whether or not the jail rules, policies, and</p> <p>18 procedures were followed?</p> <p>19 A Yes.</p> <p>20 Q Did you undertake that role in any capacity in</p> <p>21 connection with Robert Richardson's death?</p> <p>22 A I don't believe that I did.</p> <p>23 Q Now, do you know who it was that made that</p> <p>24 determination in the investigation in the Internal Affairs</p> <p style="text-align: right;">Page 23</p>	<p>1 A If they use force to get them on the ground,</p> <p>2 then, yes, it is a use of force. But simply handcuffing</p> <p>3 somebody is not a use of force.</p> <p>4 Q What about holding somebody down on the ground</p> <p>5 against their will?</p> <p>6 A I would say if they were physically restraining</p> <p>7 them -- I guess every situation is different. If somebody</p> <p>8 -- If you get somebody handcuffed and have them on the</p> <p>9 ground and maybe they're -- they're trying to kick you or</p> <p>10 something like that, you got ahold of their leg, I don't</p> <p>11 think that would be considered a use of force. But if you</p> <p>12 had to apply pressure, you know, do a strike or something</p> <p>13 like that, then yes, that would be force.</p> <p>14 Q What about holding somebody down against their</p> <p>15 will? Would you consider that a use of force? Somebody</p> <p>16 who is trying to get up and is being held down?</p> <p>17 A No.</p> <p>18 Q Why not?</p> <p>19 A Because I don't think by the definition in the</p> <p>20 General Orders Manual that that would be considered a use</p> <p>21 of force. But it's been a while since I've had to review</p> <p>22 that.</p> <p>23 Q Did you review any Use of Force Reports in</p> <p>24 connection with Robert Richardson's death?</p> <p style="text-align: right;">Page 25</p>

1 A No, I did not.

2 Q Do you know if any Use of Force Reports exist?

3 A I do not know.

4 Q Did you watch the video of Robert Richardson's

5 death?

6 A I do not believe that I did.

7 Q I had the opportunity to depose the coroner,

8 Dr. Bryan Casto. Do you know Dr. Casto?

9 A I know the name.

10 Q Have you had occasion to interact with him in

11 connection with some of your investigations involving

12 in-custody deaths?

13 A I don't know if I have or not.

14 Q He produced some documents, and I can pull it

15 out here, that indicate that you are the one that

16 delivered the video of Robert Richardson's death to the

17 coroner and watched the video with him at the coroner's

18 office. Do you remember doing that?

19 A No, I don't.

20 Q Is that something that would be consistent with

21 your duties as an IA investigator?

22 MR. SMITH: To deliver or to watch or both?

23 MR. DICELLO: Both.

24 MR. SMITH: Okay.

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1 A To deliver, if I delivered it to him, it was

2 probably because we were in the headquarters building with

3 the criminal investigators and command staff members as

4 well, maybe they asked me to run it over there to him. I

5 don't know. I don't remember doing that.

6 BY MR. DICELLO:

7 Q Did you watch the video at all in advance of

8 today's deposition?

9 A No.

10 Q Do you know someone by the name of Jim Fannin?

11 A I believe he's a coroner investigator.

12 Q He is.

13 A Okay.

14 Q And I understand that before he was a coroner's

15 investigator, he worked in some capacity for the sheriff.

16 Did you know that?

17 A No.

18 Q Just taking a shot here. So you don't remember

19 ever working with Jim Fannin outside of his capacity as a

20 coroner's investigator; is that what you're telling me?

21 A Correct.

22 Q You don't know what positions, if any, he held

23 in the Montgomery County Sheriff's Office before working

24 for the coroner?

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1 A No, I do not.

2 Q I'll ask you about a few other people, see if

3 you have worked with them and in what capacity. Captain

4 Tom Flanders, who is that?

5 A He is the -- was the captain in the jail.

6 Q How long had you worked with Captain Flanders

7 prior to your termination?

8 A Roughly a year, year and a half maybe, two

9 years.

10 Q Were you friends outside of work?

11 A Yes.

12 Q Some people when they say "friends," they think

13 a lot of different things. Can you kind of describe how

14 good of friends you were?

15 A We associated off duty.

16 Q How often?

17 A I don't know. Monthly maybe.

18 Q Sergeant Brian Lewis, did you work with

19 Sergeant Lewis?

20 A Yes, I did.

21 Q Before I leave Captain Flanders, he was

22 employed within the Jail Division of the Sheriff's

23 Department; do I have that right?

24 A Yes.

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1 Q And so he spent his days working at the jail

2 serving folks who were detained there; correct?

3 A Yes.

4 Q Now, Sergeant Brian Lewis, did you work with

5 Sergeant Lewis?

6 A Yes, I did.

7 Q How long did you work with Sergeant Lewis

8 before you were let go?

9 A We had worked in IA together for maybe a year,

10 maybe a little less.

11 Q And did Sergeant Lewis from time to time work

12 at the jail?

13 A Yeah. When he got promoted to sergeant, I

14 don't know if he went right away into the jail, but I

15 think as a sergeant he did work in the jail.

16 Q And so he would have been responsible for

17 serving members of the community who were detained in the

18 jail, that would have been part of his job; right?

19 A Yeah.

20 Q Were you and Sergeant Lewis friendly outside of

21 work?

22 A Yes.

23 Q Would you describe your friendship the same way

24 you described you and Captain Flanders's friendship?

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1 A Yes.
2 Q Deputy Jamie Horton.
3 A Yes.
4 Q Did you work with Deputy Horton?
5 A Yes, I did.
6 Q And how long did you work with Deputy Horton?
7 A We worked together when we were detectives up
8 at the Harrison Township substation.
9 Q Did Deputy Horton at some point then go to work
10 in the Jail Division?
11 A He was in the court detail.
12 Q Court detail?
13 A Yeah.
14 Q Is that within the Jail Division?
15 A Yeah, it falls under the classification of the
16 Jail Division.
17 Q So he, part of his job would have been to serve
18 members of the community who had been detained or charged
19 and were coming into court or being transferred back and
20 forth between the jail; correct?
21 A Correct.
22 Q Deputy Joseph Connelly -- I should have asked
23 you. Were you and Deputy Horton friendly outside of work?
24 A Yes.

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1 Q Would you describe your friendship the same way
2 as it was with Lewis and Flanders?
3 A Yes.
4 Q Deputy Joseph Connelly. Did you work with
5 Deputy Connelly?
6 A No. Actually, Joe and I never worked together.
7 Q How did you know Deputy Connelly?
8 A We were friends.
9 Q Friends outside of work?
10 A Yes.
11 Q Same kind of friendship as the others?
12 A Yes.
13 Q And where did Deputy Connelly work back in say
14 2012? Where was he working within the Sheriff's
15 Department if you know?
16 A Road -- I don't know. I don't know if he was
17 on road patrol or where he was assigned in 2012. But he
18 had only been with the sheriff's office now for a few
19 years. Five, four, three, I'm not sure how many years
20 he's been there.
21 Q Detective Brad Daugherty, did you work with
22 Detective Daugherty?
23 A Yes.
24 Q And how long did you work with Detective

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1 Daugherty?
2 A We worked -- We worked together on road patrol
3 for awhile. We worked together in the detective section
4 for a little while.
5 Q How long?
6 A I don't know. It's -- I don't know. I mean, I
7 guess when you say did we work together, were we in the
8 same division or -- I mean, I just --
9 Q That's fair. How long were you working such
10 that you were both employed at the Montgomery County
11 Sheriff's Office and at least knew of each other?
12 A Oh, a number of years.
13 Q And were you and Detective Daugherty friendly
14 outside of work?
15 A Yes.
16 Q In the same capacity as the others?
17 A Yes.
18 Q Capatin Flanders -- I'm sorry, where did
19 Detective Daugherty work? If you said it, I missed it.
20 Where within the sheriff's office?
21 A He was in the detective section.
22 Q Do you know what kind of things he was
23 responsible for investigating?
24 A In 2012?

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1 Q Sure.
2 A Well, he was in what they call the Special
3 Investigations Unit.
4 Q Yep.
5 A Which is responsible for investigating
6 homicides and violent crimes.
7 Q Would he be responsible for potentially
8 investigating deaths in the jail?
9 A Potentially, yes.
10 Q And Captain Flanders, before he was captain he
11 was a sergeant; is that true?
12 A Yes.
13 Q And as a sergeant in the jail from time to
14 time, do you know if Sergeant Flanders was responsible for
15 investigating jail deaths?
16 A He would not have been.
17 Q Would not have been?
18 A Not as a sergeant in the jail, no.
19 Q Captain Flanders, Sergeant Lewis, Deputy Jamie
20 Horton, Deputy Joseph Connelly, Detective Brad Daugherty.
21 These guys are all white guys; right?
22 A Yes.
23 Q As a member of the Montgomery County Sheriff's
24 Department, you all are bound by a Code of Ethics; true?

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1 A Yes.

2 Q And the purpose of the Code of Ethics is to

3 make sure that the people in the sheriff's department who

4 serve the members of this community don't violate the

5 public trust; correct?

6 A Correct.

7 Q And part of the purpose of making folks like

8 yourself when they were employed with the Montgomery

9 County Sheriff's Office swear to uphold that Code of

10 Ethics is because you're held to a high standard; correct?

11 A Yes.

12 Q And the reason that people like yourself have

13 to be held to a high standard is because you have a

14 position of authority and power in our community; right?

15 A Yes.

16 Q And if you violate those standards of ethics,

17 then you're violating your oath to the members of the

18 community; agreed?

19 A Yes.

20 Q And you'd be violating the public's trust that

21 the public has in law enforcement personnel; correct?

22 A Yes.

23 Q And so when somebody who is responsible for

24 investigating in-custody deaths violates that Code of

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1 Ethics, the public can't have trust in that official that

2 they're doing a fair and impartial job; correct?

3 MR. PREGON: Objection.

4 MR. SMITH: You go ahead and answer when he

5 objects. Unless I tell you not to answer, you answer.

6 THE WITNESS: Okay.

7 MR. SMITH: Just let them say their piece

8 first.

9 BY MR. DICELLO:

10 Q Do you remember the question?

11 A No.

12 Q So when folks like yourself who are placed in a

13 position of trust and authority and have the duty to

14 investigate in-custody deaths in the jail violate the Code

15 of Ethics, then the public, the members in our community,

16 can no longer have the trust in that official that they're

17 doing a fair and impartial investigation; true?

18 MR. PREGON: Same objection.

19 A I -- I don't know. I mean, I can't really

20 answer to what the public would think. I don't think that

21 there was anything pertaining to this investigation.

22 BY MR. DICELLO:

23 Q I'm talking about any investigation.

24 A Oh.

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1 Q In-custody deaths shouldn't be investigated by

2 folks who are violating the Code of Ethics for the

3 Montgomery County Sheriff's Office; correct?

4 MR. PREGON: Objection.

5 A I don't know really how to answer that. I

6 guess I could say no.

7 BY MR. DICELLO:

8 Q Meaning no, those people shouldn't be

9 investigating those deaths --

10 MR. PREGON: Objection.

11 BY MR. DICELLO:

12 Q -- or no, you disagree? On the record

13 sometimes --

14 A It's kind of confusing, because I really don't

15 know what the public would think when the ethical

16 questions really don't pertain to this investigation at

17 all. So I mean, I don't want to answer for how the public

18 should perceive it.

19 Q So let me ask you: Do you think that

20 detectives who have violated the Code of Ethics should be

21 investigating in-custody deaths?

22 MR. PREGON: Objection.

23 A I think if -- if the -- if the Code of Ethics

24 -- if they don't, for whatever it is that they're

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1 violating does not reflect in their day-to-day work, then

2 I don't see what it is.

3 BY MR. DICELLO:

4 Q Do you agree that people who are charged with

5 the responsibility to investigate in-custody deaths need

6 to be unbiased?

7 A I agree.

8 Q And they need to be independent and not subject

9 to the bias that we just talked about?

10 A I agree.

11 Q Do you believe that racism is probably the

12 worst form of bias in our culture?

13 A I do.

14 MR. PREGON: Objection.

15 BY MR. DICELLO:

16 Q In fact, some people would probably define

17 racism to include the word biased toward a group of people

18 based on the people's skin color or religion; true?

19 MR. PREGON: Object to form.

20 THE WITNESS: Still answer?

21 MR. SMITH: (Nods head.)

22 A True.

23 BY MR. DICELLO:

24 Q You're familiar with the video surveillance

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<p>1 system generally in the jail as of 2012?</p> <p>2 A Yes.</p> <p>3 Q And when you were responsible or participated</p> <p>4 in in-custody death investigations, the video would be</p> <p>5 immediately available to a detective; fair?</p> <p>6 A I don't know about immediately. I know there</p> <p>7 was a process -- I for one didn't know how to work the</p> <p>8 system. But I know there was a way they had to like log</p> <p>9 into it and then find the cameras and do a specific</p> <p>10 timeframe of what they wanted. So I mean, as far as</p> <p>11 immediately, I don't know. But I know there would be</p> <p>12 video available.</p> <p>13 Q And in your experience, how long would it take</p> <p>14 to obtain video of an incident that somebody was</p> <p>15 interested in?</p> <p>16 A I don't know. I guess a lot depended upon,</p> <p>17 too, how long of a time span they were looking for,</p> <p>18 because it would have had to have been downloaded to a CDR</p> <p>19 or DVD or whatever format it is they use.</p> <p>20 Q Do you think -- In this case, we're talking</p> <p>21 about about a 40-minute interval at the longest. And it's</p> <p>22 involving a death, and the man was declared dead on a</p> <p>23 certain day. Based on your experience, how long should it</p> <p>24 take to obtain the video from that incident?</p> <p style="text-align: right;">Page 38</p>	<p>1 video to the coroner, if that was the responsibility of</p> <p>2 the folks on the criminal investigation side?</p> <p>3 A Again, I may have just been asked to run it</p> <p>4 over to the coroner's office because I was in the building</p> <p>5 with him and available. They may have said, "Can you run</p> <p>6 this over." I don't know.</p> <p>7 Q Based on your understanding -- And it doesn't</p> <p>8 sound like you've had too much involvement with the</p> <p>9 coroner, but the fact of the matter is you did deliver the</p> <p>10 video of Mr. Richardson's death to the coroner in this</p> <p>11 case, so I have to ask you the questions. But based on</p> <p>12 your experience, is it typical for the sheriff's office to</p> <p>13 wait until the coroner issues a cause of death before</p> <p>14 taking the video of the actual death to the coroner for</p> <p>15 the coroner's review?</p> <p>16 MR. PREGON: Object to form.</p> <p>17 BY MR. DICELLO:</p> <p>18 Q Or is it more typical you would want to get the</p> <p>19 video to the coroner before the coroner rules?</p> <p>20 MR. PREGON: Object to form.</p> <p>21 A Answer?</p> <p>22 BY MR. DICELLO:</p> <p>23 Q Uh-huh.</p> <p>24 A Sorry. I didn't know, because I didn't do</p> <p style="text-align: right;">Page 40</p>
<p>1 A Again, I -- I'm not familiar with the system on</p> <p>2 how it downloads. But I mean, if it's a video and they're</p> <p>3 downloading it off the hard drive, I guess it would be</p> <p>4 hard for me to answer that because I don't know.</p> <p>5 Q In this case, I think the record and the</p> <p>6 documents will show that the video of the incident that</p> <p>7 actually captured Robert Richardson's death was tendered</p> <p>8 to the coroner over a month after the incident occurred.</p> <p>9 Is that typical or atypical based on your experience?</p> <p>10 A I don't know, because I don't really have any</p> <p>11 experience as far as how long it takes for the coroner to</p> <p>12 get a video or when a video would be delivered to a</p> <p>13 coroner or such.</p> <p>14 Q When you're investigating in-custody deaths,</p> <p>15 aren't you interested in understanding the mechanism of</p> <p>16 how the individual died to do your investigation?</p> <p>17 A No, that would have been the responsibility of</p> <p>18 the criminal investigators. We were simply there to</p> <p>19 oversee and make sure that policies and procedures would</p> <p>20 have been followed.</p> <p>21 Q Did you participate in any way in the criminal</p> <p>22 investigation into Robert Richardson's death?</p> <p>23 A No.</p> <p>24 Q So why were you the one that delivered the</p> <p style="text-align: right;">Page 39</p>	<p>1 criminal investigations, criminal death investigations.</p> <p>2 So I'm not sure what the procedure would have been for</p> <p>3 that. I don't know, so I can't answer that.</p> <p>4 Q Who would you ask that question of?</p> <p>5 A The guys who did criminal investigations.</p> <p>6 Q Do you know who did the criminal investigation</p> <p>7 of Robert Richardson's death?</p> <p>8 A No, I don't.</p> <p>9 Q Ever heard of the term "positional asphyxia"?</p> <p>10 A Yes, I have.</p> <p>11 Q What's your understanding of what that is?</p> <p>12 A I guess in layman's terms it would be hog-tying</p> <p>13 somebody.</p> <p>14 Q Is that how the sheriff's office trained you?</p> <p>15 Meaning is that what your understanding of positional</p> <p>16 asphyxia is based on the training that you received</p> <p>17 through the sheriff's office?</p> <p>18 A Yeah, that's -- that's my understanding of what</p> <p>19 positional asphyxiation is, is hog-tying somebody. And I</p> <p>20 know that we weren't to do that.</p> <p>21 Q What happens to people in positional</p> <p>22 asphyxiation?</p> <p>23 MR. SMITH: Objection.</p> <p>24 A It's my understanding they suffocate.</p> <p style="text-align: right;">Page 41</p>

<p>1 BY MR. DICELLO:</p> <p>2 Q And did you learn that anything other than</p> <p>3 hog-tying could lead to positional asphyxiation, or was it</p> <p>4 just hog-tying?</p> <p>5 MR. PREGON: Object to form.</p> <p>6 A The only thing -- The only thing that I</p> <p>7 associate positional asphyxiation with is hog-tying. And</p> <p>8 that's -- Do you want me to tell you what my understanding</p> <p>9 of hog-tying is?</p> <p>10 BY MR. DICELLO:</p> <p>11 Q I think we all understand it. But go ahead.</p> <p>12 A When somebody is on -- facedown, handcuffed</p> <p>13 behind their back, and their knees are brought up, and</p> <p>14 there was a strap, I guess you could call it, they called</p> <p>15 it a RIPP Hobble, I think, where you're able to put --</p> <p>16 you're able to like put their legs together or ankles</p> <p>17 together and then fasten the other end of it to the</p> <p>18 handcuffs so that they would -- their hands are cuffed</p> <p>19 behind their backs and their feet are up.</p> <p>20 Q So based on the training that you received from</p> <p>21 the sheriff's office while you were employed there, you</p> <p>22 did not associate just being on your belly with your hands</p> <p>23 cuffed behind your back without the legs being tied up</p> <p>24 into hog-tying, you didn't associate that position with</p> <p style="text-align: right;">Page 42</p>	<p>1 stayed there next to him, watched the video with him, and</p> <p>2 explained to him what was happening during the video.</p> <p>3 MR. PREGON: Objection.</p> <p>4 BY MR. DICELLO:</p> <p>5 Q Are you telling us you don't remember doing</p> <p>6 that?</p> <p>7 MR. PREGON: Objection to form.</p> <p>8 A I don't remember doing that.</p> <p>9 BY MR. DICELLO:</p> <p>10 Q And to have explained to him what was going on</p> <p>11 in the video, you would have had to have watched the video</p> <p>12 before getting there; right?</p> <p>13 A I don't recall doing that.</p> <p>14 Q Do you know if you left a copy of the video</p> <p>15 with the coroner?</p> <p>16 A I do not know.</p> <p>17 Q And I presume you're going to tell us you don't</p> <p>18 know what the protocol would be, if a copy of that video</p> <p>19 should be left with the coroner or shouldn't?</p> <p>20 A Again, I'm not disputing that that happened, I</p> <p>21 just don't remember that. Like I said, it would not have</p> <p>22 been something that was typical for the Internal Affairs</p> <p>23 to deliver something to the coroner involving a criminal</p> <p>24 investigation. The only thing I can think of is that</p> <p style="text-align: right;">Page 44</p>
<p>1 positional asphyxia; correct?</p> <p>2 A No, no.</p> <p>3 Q Yes, that's correct?</p> <p>4 A Oh, yes, that's correct. I did not associate</p> <p>5 that with hog-tying positional asphyxiation.</p> <p>6 Q So if you were to have investigated as an IA</p> <p>7 investigator a situation in the jail where someone wasn't</p> <p>8 hog-tied but rather they were just on their belly with</p> <p>9 their hands behind their back, you wouldn't be thinking</p> <p>10 positional asphyxia; correct?</p> <p>11 MR. PREGON: Objection.</p> <p>12 A Correct.</p> <p>13 BY MR. DICELLO:</p> <p>14 Q I just want to show you what was marked</p> <p>15 Plaintiff's Exhibit 2, and it has Dr. Casto's name at the</p> <p>16 bottom, just to see if maybe this refreshes your</p> <p>17 recollection. We already talked about it. But this is a</p> <p>18 document, it's an investigator's report. It looks like it</p> <p>19 was prepared by Dr. Casto, and it references Mr. Fannin's</p> <p>20 name, but it documents that on June 20th, 2012 you came by</p> <p>21 and showed the coroner the video. Having read that, does</p> <p>22 that refresh your recollection at all?</p> <p>23 A No.</p> <p>24 Q And Dr. Casto also testified that you actually</p> <p style="text-align: right;">Page 43</p>	<p>1 somebody said, "Hey, are you available, can you run this</p> <p>2 over there."</p> <p>3 Q Sure. I've asked the coroner for his whole</p> <p>4 file and no video was produced with it. Based on your</p> <p>5 experience, would you have left a copy with the coroner or</p> <p>6 no or you don't know?</p> <p>7 A I don't know. I would have thought if I was</p> <p>8 taking it over there, I would have thought it was to give</p> <p>9 it to him.</p> <p>10 Q That would make sense.</p> <p>11 A Yes.</p> <p>12 Q Mr. Sollenberger, are you going to take</p> <p>13 responsibility today for sending and receiving a number of</p> <p>14 racist text messages over the years while you were</p> <p>15 employed for the Montgomery County Sheriff's Office?</p> <p>16 MR. PREGON: And, Nick, I'm going to object to</p> <p>17 this line of questioning. If you give me a continuing, I</p> <p>18 won't interrupt.</p> <p>19 MR. DICELLO: Sure.</p> <p>20 A Can you ask the question again?</p> <p>21 BY MR. DICELLO:</p> <p>22 Q Yeah. Are you going to take responsibility</p> <p>23 today under oath in this case for sending and receiving</p> <p>24 numerous racist text messages during the years that you</p> <p style="text-align: right;">Page 45</p>

<p>1 were employed as a Montgomery County Sheriff's employee?</p> <p>2 A During the course of the investigation, the</p> <p>3 only information that I was ever provided was a PDF file</p> <p>4 of text messages. I never had the ability to authenticate</p> <p>5 any of the text messages sent to and from. I never</p> <p>6 acknowledged it, I never denied it, I simply do not recall</p> <p>7 the text messages in question that they were asking. So</p> <p>8 could those text messages have been sent from me? Yes. I</p> <p>9 still to this day have never seen the phone in question or</p> <p>10 had the ability to authenticate any of the text messages.</p> <p>11 It was only after the course of the investigation that I</p> <p>12 learned that the phone had been passed from my ex-wife to</p> <p>13 a third party back to her to the investigators and around</p> <p>14 and such. So --</p> <p>15 Q Are you a racist?</p> <p>16 A No.</p> <p>17 Q But you use racial slurs?</p> <p>18 A Yes.</p> <p>19 Q How can you rectify that?</p> <p>20 A I would say the --</p> <p>21 MR. SMITH: Rectify it?</p> <p>22 MR. DICELLO: Yeah.</p> <p>23 MR. SMITH: Rectify to correct it? Is that</p> <p>24 your question?</p> <p style="text-align: right;">Page 46</p>	<p>1 and beliefs and act out biasly against a certain group.</p> <p>2 BY MR. DICELLO:</p> <p>3 Q So your definition of racism isn't a state of</p> <p>4 mind, it's how you act toward other people; fair?</p> <p>5 A Fair.</p> <p>6 Q There's Bates stamp numbers on the bottom of</p> <p>7 these documents. And that will help us go through it.</p> <p>8 Let's go to MC 3545. First of all, this -- have you seen</p> <p>9 this exhibit before?</p> <p>10 A Yes.</p> <p>11 Q And what is your understanding of what it is?</p> <p>12 A The internal investigation.</p> <p>13 Q And so you would have yourself been responsible</p> <p>14 for preparing internal investigations like what is Exhibit</p> <p>15 5, but just on different subject matter; correct?</p> <p>16 A Yes.</p> <p>17 Q And based on reviewing this document and based</p> <p>18 on your familiarity with how the business records for</p> <p>19 Internal Affairs investigations at the Montgomery County</p> <p>20 Sheriff's Office are maintained, do you understand that</p> <p>21 this is a business record that is kept in the regular</p> <p>22 course of business for the Montgomery County Sheriff's</p> <p>23 Office?</p> <p>24 A Yes.</p> <p style="text-align: right;">Page 48</p>
<p>1 MR. DICELLO: Reconcile.</p> <p>2 BY MR. DICELLO:</p> <p>3 Q How do you reconcile your two statements where</p> <p>4 you say "I'm not a racist but I send racial slurs and text</p> <p>5 messages"?</p> <p>6 A They're jokes.</p> <p>7 Q I'm handing you what's been marked as</p> <p>8 Plaintiff's Exhibit 5.</p> <p>9 (Exhibit No. 5 marked for identification.)</p> <p>10 BY MR. DICELLO:</p> <p>11 Q We're going to make some reference to that.</p> <p>12 Before we get to the document, and maybe while your</p> <p>13 attorney has a chance to take a quick look at it --</p> <p>14 MR. SMITH: I've seen it.</p> <p>15 BY MR. DICELLO:</p> <p>16 Q Do we agree that there's no room for racists to</p> <p>17 be employed in the Montgomery County Jail?</p> <p>18 A I guess you would have to defend a racist.</p> <p>19 Q What do you consider a racist to be?</p> <p>20 A I think a racist would be somebody who acts out</p> <p>21 towards a certain group of individuals. I think --</p> <p>22 Q So you have to actually act on your --</p> <p>23 MR. SMITH: He has to finish, Nick.</p> <p>24 A I think you would have to take your thoughts</p> <p style="text-align: right;">Page 47</p>	<p>1 Q At MC 3545, you understand that this is a text</p> <p>2 that was exchanged between you and detective -- I'm sorry,</p> <p>3 between you and Captain Flanders on, is that May 2nd,</p> <p>4 2012? Is that how you understand that? Do you see the</p> <p>5 time stamp?</p> <p>6 A Yes.</p> <p>7 Q And so this would be -- Mr. Richardson died on</p> <p>8 May 19th, 2012. So this would have been less than two</p> <p>9 weeks before he died in the jail; correct?</p> <p>10 A Correct.</p> <p>11 Q And in this text message, you're communicating</p> <p>12 with Captain Flanders, you're referring to some black</p> <p>13 people as coons; true?</p> <p>14 A I'm not sure if I'm on the right or the left.</p> <p>15 I'm not sure if I'm on the right or the left of the text.</p> <p>16 I don't know if that's -- I don't know if I was talking</p> <p>17 about the Central State fight and Captain Flanders replied</p> <p>18 coons or vice versa.</p> <p>19 Q So either you or Captain Flanders were</p> <p>20 referring to a group of black people as coons?</p> <p>21 A Yes.</p> <p>22 Q And what is your understanding -- Whether you</p> <p>23 used it or whether Captain Flanders sent you something,</p> <p>24 what is your understanding of what "coon" refers to?</p> <p style="text-align: right;">Page 49</p>

<p>1 A A derogatory term for black people.</p> <p>2 Q And the next page, MC 3546. It looks like</p> <p>3 there's a text message exchange here between you and</p> <p>4 Captain Flanders, it looks like it's May 7th, 2012. Did</p> <p>5 you see that? Does that look like the date that that was</p> <p>6 sent?</p> <p>7 A Yes.</p> <p>8 Q Again, this would be about two weeks or so,</p> <p>9 within two weeks of Mr. Richardson's death at the</p> <p>10 Montgomery County Jail; correct?</p> <p>11 A Yes.</p> <p>12 Q And this document can speak for itself, but</p> <p>13 it's my understanding that your text messages are the ones</p> <p>14 that are in color. Is that your understanding after</p> <p>15 having reviewed this document?</p> <p>16 A I --</p> <p>17 Q I think you said you've seen it before; right?</p> <p>18 A Yeah, but I don't know if I was on the right or</p> <p>19 the left.</p> <p>20 Q Okay. So let's assume, for the purposes of my</p> <p>21 questions, that this document indicates and the</p> <p>22 investigator who prepared this document would indicate</p> <p>23 that your text messages are the ones that are colored,</p> <p>24 okay?</p> <p style="text-align: right;">Page 50</p>	<p>1 a text message exchanged between you and Sergeant Lewis</p> <p>2 back in 2012; correct?</p> <p>3 A I'm looking for it. Okay. I think it's --</p> <p>4 Yes.</p> <p>5 Q This was before Mr. Richardson died at the</p> <p>6 Montgomery County Jail; true?</p> <p>7 A Yes, I think it's March 30th of 2012.</p> <p>8 Q And in this text message, you announce that you</p> <p>9 hate niggers; true?</p> <p>10 A That's what it says, yes.</p> <p>11 Q Because you do; correct?</p> <p>12 A No.</p> <p>13 Q So you're the kind of person that writes "I</p> <p>14 hate niggers. That is all." But you respect black</p> <p>15 people?</p> <p>16 A Yes.</p> <p>17 Q How do you reconcile that?</p> <p>18 A It's a joke.</p> <p>19 Q You think that's a joke?</p> <p>20 A Yeah. It was a private conversation between</p> <p>21 Brian and I.</p> <p>22 Q You say that you're at Boston's with Craig.</p> <p>23 Who is Craig?</p> <p>24 A Craig would have been -- I believe it was Craig</p> <p style="text-align: right;">Page 52</p>
<p>1 A The ones on the right?</p> <p>2 Q Yeah. In this one, you're on the right. But</p> <p>3 do you see there's some bubbles that are clear, white, and</p> <p>4 some bubbles that are colored?</p> <p>5 MR. SMITH: We don't have colors. But it looks</p> <p>6 like a copy of the highlight.</p> <p>7 MR. DICELLO: I should have said shaded. My</p> <p>8 copy is the same. I should have said there's a shaded</p> <p>9 part.</p> <p>10 A Okay.</p> <p>11 BY MR. DICELLO:</p> <p>12 Q So I want you to assume for purposes of this</p> <p>13 deposition and my questions that the shaded parts are</p> <p>14 purported to be your text messages according to this</p> <p>15 document, the investigation, and the investigator, okay?</p> <p>16 A Okay.</p> <p>17 Q So on May 7th, 2012, you texted Captain</p> <p>18 Flanders, and I'll just have to read this, excuse my</p> <p>19 language, "Did you see the niggers that made the news in</p> <p>20 Texas because they refused to pay the gratuity on a party</p> <p>21 of ten." Is that a text message you're going to take</p> <p>22 responsibility for sending on that day?</p> <p>23 A Yes.</p> <p>24 Q MC 3548, the bottom section looks like this is</p> <p style="text-align: right;">Page 51</p>	<p>1 Stivers.</p> <p>2 Q Is he affiliated with the Montgomery County</p> <p>3 Sheriff's Office at all?</p> <p>4 A No.</p> <p>5 Q And Boston's, what is that, a restaurant?</p> <p>6 A A bar, yes.</p> <p>7 Q A bar. And this -- So this is at 10:14 p.m.,</p> <p>8 you're at a bar; right?</p> <p>9 A Yeah, if that's what --</p> <p>10 Q 22:14?</p> <p>11 A Oh, I see the time. Yes.</p> <p>12 Q And you text message Sergeant Lewis that you're</p> <p>13 at this bar and the niggers are trying to take the bar</p> <p>14 over. That's what you say; right?</p> <p>15 A Yes.</p> <p>16 Q Is that another joke?</p> <p>17 A Yes.</p> <p>18 Q And then you say "There r 4 of them at the</p> <p>19 bar." Are you referring to the niggers at the bar?</p> <p>20 A The black people at the bar, yes.</p> <p>21 Q You don't say black people, do you?</p> <p>22 A No. I say "them."</p> <p>23 Q Why did you refer to these black people as</p> <p>24 niggers?</p> <p style="text-align: right;">Page 53</p>

1 A As a joke.
2 Q You thought that Sergeant Lewis would find that
3 funny?
4 A Yes.
5 Q Do you know if Sergeant Lewis thought it was
6 funny that you're referring to black people in the
7 community as niggers?
8 MR. PREGON: Objection.
9 Go ahead.
10 A I don't know.
11 BY MR. DICELLO:
12 Q Well, he sent back a text that said, "Who left
13 their gate!!!!" and so on and so on. And I think he meant
14 to say "they," but it says "The don't serve Nog beer
15 there." So did it appear to you that he found that funny?
16 MR. PREGON: Objection.
17 A I suppose he did.
18 BY MR. DICELLO:
19 Q So this is one member of the sheriff's office
20 thinking that it's funny that another member of the
21 sheriff's office is out in the community referring to
22 black members of the community as niggers?
23 MR. PREGON: Objection.
24 BY MR. DICELLO:

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1 Q Is that what you see here?
2 A Yes.
3 Q And that was pretty common between you and some
4 of your co-workers; right?
5 MR. PREGON: Objection; form.
6 A I wouldn't say common, but yes, it did happen.
7 BY MR. DICELLO:
8 Q And I think this report indicates that at least
9 between you and deputy -- I'm sorry, Captain Flanders,
10 there were 29 such text messages exchanged that had
11 inappropriate racial slurs. Is that pretty common?
12 MR. PREGON: Objection.
13 MR. SMITH: Wait a minute. What's the question
14 at this point, whether the report says that or whether --
15 what's common?
16 BY MR. DICELLO:
17 Q Do you understand the question?
18 A No.
19 Q Then you have to let me know, okay?
20 A Well, he interjected so I --
21 Q It's important that you and I understand what
22 is happening. So if you don't understand a question, let
23 me know and I'll rephrase it, all right?
24 A Okay.

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1 Q Is it your understanding -- You told me that
2 you reviewed this report before; right?
3 A Yes.
4 Q You know how to review IA investigative
5 reports; correct?
6 A Yes.
7 Q Because you've been responsible for preparing
8 them; right?
9 A Yeah.
10 Q You've been trained on how to prepare them and
11 how to interpret them?
12 A Yes.
13 Q And do you understand that this report, the IA
14 investigator in this report, who was trained presumably in
15 the same way you were; right?
16 A Yes.
17 Q That IA investigator's investigation concluded
18 that you exchanged 29 racially inappropriate text messages
19 with Captain Flanders. Were you aware of that?
20 A Yes.
21 Q Based on the fact that there were 29 such
22 inappropriate racial text messages between just you and
23 Captain Flanders, would you agree that exchanging racially
24 inappropriate text messages with your co-workers was

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1 pretty common?
2 MR. PREGON: Object to form.
3 A I wouldn't say it was common. Out of the
4 thousands of text messages, you know, that we communicated
5 back and forth, there's 29 of them that were
6 inappropriate. So to say it was a common thing, I don't
7 think so.
8 BY MR. DICELLO:
9 Q This text message we're looking at, MC 3548,
10 with Sergeant Lewis -- and just to give you some context,
11 Sergeant Lewis was present and was supervising other
12 corrections officers when Mr. Richardson died in the jail.
13 Did you know that?
14 A Again, I mean, I knew Brian was assigned to the
15 jail, but I didn't know when.
16 Q So I'm telling you that now.
17 A Okay.
18 Q That Sergeant Lewis was there. And he
19 testified from the chair you're in that he was responsible
20 for supervising the corrections officers who were
21 restraining Mr. Richardson at time he died.
22 MR. PREGON: Objection.
23 BY MR. DICELLO:
24 Q So this is an exchange between you and Sergeant

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1 **Lewis months before Mr. Richardson died where you're**
2 **communicating to him that some black people walked into a**
3 **bar you were at, you referred to them as niggers, that**
4 **there are four of them; correct?**
5 A Yes.
6 **Q And then Sergeant Lewis responded, "Who left**
7 **their gate." What did you interpret that to mean?**
8 A I really didn't know.
9 **Q Did you interpret it to mean there should be a**
10 **gate where black people aren't let into Boston's?**
11 MR. PREGON: Objection.
12 A I really didn't interpret it as anything. He
13 just responded.
14 BY MR. DICELLO:
15 **Q So you guys are exchanging text messages that**
16 **are meaningless to one another?**
17 A Yes.
18 **Q And then he says, I think he means to say, that**
19 **is Sergeant Lewis, "They don't serve nog beer there." Is**
20 **that how you think it should have been texted but for the**
21 **typo?**
22 A Yes.
23 **Q And when he says "they," are you interpreting**
24 **he's referring to the bar?**

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1 A Yes.
2 **Q So what is nog beer?**
3 A I do not know.
4 **Q Do you think the context of this is Sergeant**
5 **Lewis is saying they don't serve black people beer there?**
6 MR. PREGON: Objection to form.
7 A I'm not sure, really, what Brian meant by that.
8 Maybe that's -- I don't know what he answered, maybe
9 that's what he meant. I'm not sure.
10 BY MR. DICELLO:
11 **Q You agree this is totally inappropriate for**
12 **members of the Montgomery County Sheriff's Office to be**
13 **engaged in; true?**
14 A It's a private conversation between Brian and I
15 joking back and forth.
16 **Q My question was: Do you agree that it's**
17 **totally improper?**
18 MR. PREGON: Object to form.
19 A Hindsight, obviously, it wasn't the smartest
20 thing to do.
21 BY MR. DICELLO:
22 **Q Because you got caught; right?**
23 A Because it was made public, yes.
24 **Q So if it wasn't made public, it was the right**

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1 **thing to do in your mind?**
2 A No, I didn't say that.
3 **Q So I'm giving you the opportunity right now.**
4 MR. SMITH: To do what?
5 MR. DICELLO: To answer this question.
6 BY MR. DICELLO:
7 **Q This text message we're looking at between you**
8 **and Sergeant Lewis is totally improper?**
9 MR. PREGON: Object to form.
10 MR. SMITH: I object, too, because improper in
11 what sense?
12 BY MR. DICELLO:
13 **Q Do you understand the question?**
14 MR. SMITH: Well, I'm asking you to define
15 "improper."
16 MR. DICELLO: I'm using the ordinary English.
17 If we need a dictionary --
18 MR. SMITH: Well, there's a lot of different
19 people in this country to interpret improper as all kinds
20 of different things. And they're all nice people. And
21 I'm asking you to give him a fair -- fair parameter for
22 him to answer your question. If you don't give him a fair
23 parameter, perhaps he shouldn't answer it at all.
24 BY MR. DICELLO:

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1 **Q Do you know what the word "improper" means?**
2 A I know what the word "improper" means, and I
3 can tell you this conversation is two guys off duty not
4 relating to work at all joking back and forth.
5 **Q So it's not improper?**
6 A Right. It's a joke between friends.
7 **Q Okay. I just need to know what your opinion**
8 **is.**
9 A Okay.
10 **Q So according to you, this is not improper;**
11 **true?**
12 A True.
13 **Q And then you say "three more walked in." Three**
14 **more what?**
15 A Right here. "Plus three more." I guess -- I
16 guess I'm referring to three more black people walked in.
17 **Q Well, use the term that you refer them to.**
18 **Three more what walk in?**
19 A "Plus three more walked in."
20 **Q Three more what?**
21 A I don't know. That's what it says in the text
22 message.
23 **Q And then when three more walk in, apparently**
24 **now you don't know what you're referring to?**

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<p>1 A Well, I told you. I think I'm probably</p> <p>2 referring to three more black people walk in.</p> <p>3 Q But that's not how you refer to black people,</p> <p>4 is it?</p> <p>5 A I just referred to them as black people.</p> <p>6 Q But in the text messages, you're referring to</p> <p>7 three more as what?</p> <p>8 A It doesn't. It just says "three more walked</p> <p>9 in."</p> <p>10 Q You're not willing to use the terminology today</p> <p>11 under oath that you used in these text messages?</p> <p>12 A The terminology used in the text messages are</p> <p>13 jokes between me and my friend, a private conversation</p> <p>14 between him and I.</p> <p>15 Q My question is: Are you willing to use the</p> <p>16 terminology today under oath that you used in your text</p> <p>17 messages in terms of how you refer to black people?</p> <p>18 A No. All I said was "three more walked in."</p> <p>19 Q And at the trial of this case, if you're asked</p> <p>20 to testify, are you going to refer to black people in</p> <p>21 front of the jury in the way that you refer to them in</p> <p>22 these text messages, or no?</p> <p>23 A No. I can read you the text message, what I</p> <p>24 sent to Brian. But I'm not going to add words to a text</p> <p style="text-align: right;">Page 62</p>	<p>1 Hank Williams, Junior?</p> <p>2 A I really don't know.</p> <p>3 Q All right. And then you sum up the</p> <p>4 conversation pretty succinctly in your last text on here;</p> <p>5 true?</p> <p>6 A Yes.</p> <p>7 Q And you say -- What do you say? Read that one</p> <p>8 into the record for us.</p> <p>9 A It says, "I hate niggers. That is all."</p> <p>10 Q What did you mean by that?</p> <p>11 A It was a joke. It was a joke to Brian about</p> <p>12 our conversation.</p> <p>13 Q MC 3550. I believe if -- the prior page would</p> <p>14 indicate that the investigator found that this was a</p> <p>15 conversation, text message conversation between you and</p> <p>16 Deputy Horton. And then I want to direct your attention</p> <p>17 to a text that was sent by you December 9th of 2012. Can</p> <p>18 you read that one into the record about the president of</p> <p>19 the United States?</p> <p>20 A December --</p> <p>21 Q At 14:44.</p> <p>22 A Yeah, I see it. It's kind of hard to read.</p> <p>23 Q Yeah, they are tough to read.</p> <p>24 A Just because the niggers scammed the election</p> <p style="text-align: right;">Page 64</p>
<p>1 message that aren't there.</p> <p>2 Q And then in response to you saying that three</p> <p>3 more walked in, Sergeant Lewis says, "I hope u packing."</p> <p>4 Do you see that?</p> <p>5 A Uh-huh.</p> <p>6 Q Yes?</p> <p>7 A Yes.</p> <p>8 Q And what's your understanding of what he means</p> <p>9 there?</p> <p>10 A That I'd be carrying a gun off duty.</p> <p>11 Q Is that a joke, too?</p> <p>12 A Yes.</p> <p>13 Q And then there's something that is obscured, I</p> <p>14 think you say "I'm not," but you say "I'll stab a coon."</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q And what you mean there is you don't have your</p> <p>18 gun on you, but you'll stab a coon; right?</p> <p>19 A That is what the joke is, yes.</p> <p>20 Q And then I think there's something that says</p> <p>21 when you're going to play some Hank Williams on the --</p> <p>22 Hank Williams, Junior on the jukebox; right?</p> <p>23 A Yes.</p> <p>24 Q And what does that mean? Why would you play</p> <p style="text-align: right;">Page 63</p>	<p>1 and is pres, it does not give -- it does not give the</p> <p>2 C-damn right to shop at DLM.</p> <p>3 Q I think it's "G damn," as in goddamn?</p> <p>4 A "Just because the niggers scammed the election</p> <p>5 and is pres, it does not give the G-damn right to shop at</p> <p>6 DLM."</p> <p>7 Q What is DLM?</p> <p>8 A Dorothy Lane Market.</p> <p>9 Q And what's that?</p> <p>10 A A grocery store.</p> <p>11 Q Is that a place where you'd rather black people</p> <p>12 not shop?</p> <p>13 A No.</p> <p>14 Q So what did you mean by this text?</p> <p>15 A I really don't know.</p> <p>16 Q You refer to the president of the United States</p> <p>17 as a nigger; true?</p> <p>18 A In the text message, yes.</p> <p>19 Q So is this another joke?</p> <p>20 A Yes.</p> <p>21 Q And this is how you and your co-workers joked</p> <p>22 when you were off duty; true?</p> <p>23 MR. PREGON: Objection.</p> <p>24 A I mean, it was a joke that I sent Jamie.</p> <p style="text-align: right;">Page 65</p>

<p>1 BY MR. DICELLO:</p> <p>2 Q Okay. In the third box, you kind of got the</p> <p>3 top box we just read, then there's a middle box and a</p> <p>4 bottom box. There's a conversation between you and Jamie</p> <p>5 about getting a new co-worker. Is that what this is</p> <p>6 about?</p> <p>7 A Let me read it.</p> <p>8 (Reviewing document.)</p> <p>9 Q You say, "I seen they hired a couple more</p> <p>10 deputies." And Deputy Horton says, "I heard one is a</p> <p>11 giant black guy."</p> <p>12 A Yes.</p> <p>13 Q And what was your response to that?</p> <p>14 A I said, "Great. Don't get him mixed in when</p> <p>15 you're running prisoners back."</p> <p>16 Q What did you mean by that?</p> <p>17 A It was a joke to Jamie.</p> <p>18 Q Were you also joking with Deputy Connelly when</p> <p>19 you said, "You know, Joe Connelly, I will buy u a beer.</p> <p>20 Thank u for stepping up and wanting to kill Muslim sand</p> <p>21 niggers when no one else would." Is that another joke?</p> <p>22 A Yes.</p> <p>23 Q And when Deputy Connelly responded "LMFAO,"</p> <p>24 that means he was laughing his fucking ass off; right?</p> <p style="text-align: right;">Page 66</p>	<p>1 him.</p> <p>2 BY MR. DICELLO:</p> <p>3 Q If you can't read these, my copy is a little</p> <p>4 bit better. But I'm looking right here.</p> <p>5 A Oh, okay.</p> <p>6 Q Where you say, "Really? A black boss? I don't</p> <p>7 think so." What were you referring to there? Do you</p> <p>8 know?</p> <p>9 A I guess I was -- I don't know. Maybe referring</p> <p>10 to the president.</p> <p>11 Q And then there's a text message to you that</p> <p>12 says, "How do you explain the president, LOL". And you</p> <p>13 respond, "He's a half breed. It's not his fault his mom</p> <p>14 was a mud shark communist whore." That's how you refer to</p> <p>15 the president of the United States with your co-workers?</p> <p>16 A In this joke, I did, yes.</p> <p>17 Q Do you think that's funny?</p> <p>18 A I sent it to get a response from him.</p> <p>19 Q Do you think that is funny?</p> <p>20 A I mean, it was a joke. It was two guys</p> <p>21 bantering back and forth.</p> <p>22 Q I understand that. You've told us that. I'm</p> <p>23 asking you if you think it's funny.</p> <p>24 A No.</p> <p style="text-align: right;">Page 68</p>
<p>1 A Yes.</p> <p>2 Q This is on page MC 3551, I'm sorry.</p> <p>3 A 3551?</p> <p>4 Q Yeah, near the bottom.</p> <p>5 A Then yes.</p> <p>6 Q Because you guys thought that was funny, I'm</p> <p>7 talking about killing Muslim sand niggers; right?</p> <p>8 A Yes. It was a joke.</p> <p>9 Q And in response to that joke, Deputy Connelly</p> <p>10 says, "Actually, let's be honest. I am only a veteran</p> <p>11 because I thought a couple deployments raised my chances</p> <p>12 of killing a MUJ."; correct?</p> <p>13 A Correct.</p> <p>14 Q What did you understand MUJ means?</p> <p>15 A I have no idea.</p> <p>16 Q All right. MC 3552. The third box here.</p> <p>17 Again, for purposes of my questions, we're presuming that</p> <p>18 your text messages are the shaded ones, not the white</p> <p>19 ones. Here you say, "Really? A black boss? I don't</p> <p>20 think so." What were you referring to there?</p> <p>21 A Where is this?</p> <p>22 Q Yeah, it looks like it's a text that was sent</p> <p>23 January 29th, 2013 at nine --</p> <p>24 MR. SMITH: You may have to point it out to</p> <p style="text-align: right;">Page 67</p>	<p>1 Q So why would you send a joke that you don't</p> <p>2 think is funny?</p> <p>3 A To see if he thought it was funny.</p> <p>4 Q So that's how you joke, you don't think this is</p> <p>5 funny, but let me send you a racist joke and see if you</p> <p>6 think it's funny?</p> <p>7 A Yeah.</p> <p>8 Q Page MC 3554. At the top of the page, it looks</p> <p>9 like there's some text messages, January 10th, 2012 at</p> <p>10 14:20. Are you with me, Mr. Sollenberger?</p> <p>11 A Yes.</p> <p>12 Q And you say, "Watching history channel on MLK,</p> <p>13 showing old films of restaurants in the south. It would</p> <p>14 have been fun to beat up coloreds because they came into</p> <p>15 your restaurant." That's another joke that you thought --</p> <p>16 Did you think that joke was funny, or no?</p> <p>17 A Well, I sent it as a joke. I mean, I really</p> <p>18 didn't have any reaction to it. I sent it and thought it</p> <p>19 was funny.</p> <p>20 Q So you think talking about beating up coloreds</p> <p>21 for coming into your restaurant on Martin Luther King</p> <p>22 Junior Day was funny banter between you and your</p> <p>23 co-workers; correct?</p> <p>24 A Yes.</p> <p style="text-align: right;">Page 69</p>

<p>1 Q And then in the text below that -- We've got</p> <p>2 January 22nd, 2012. And I think these texts are between</p> <p>3 you and Captain Flanders. And in fact, if you go to 3552,</p> <p>4 it does say, Detective Sollenberger's comments are in</p> <p>5 green and Captain Flanders's comments are gray. So does</p> <p>6 that help you understand that your comments are the darker</p> <p>7 colored ones on this photocopy?</p> <p>8 A Yeah.</p> <p>9 Q So now we're looking at January 22nd, 2012 on</p> <p>10 MC 35534. And you can see some places that are blacked</p> <p>11 out and it says "child." Do you see that?</p> <p>12 A Yes.</p> <p>13 Q Captain Flanders had some children?</p> <p>14 A Yes.</p> <p>15 Q And you knew those children; correct?</p> <p>16 A Yes.</p> <p>17 Q Captain Flanders sent you a text a few -- about</p> <p>18 four or five months before Mr. Richardson died, apparently</p> <p>19 he says his child's name, but it's blacked out, and he</p> <p>20 says his child "asked why black people are meaner than</p> <p>21 white people and why they talk different." And your</p> <p>22 response was, "Nice. U gonna explain it or do u want me</p> <p>23 to do it. Hell, I'll come into his class and explain it."</p> <p>24 And then Captain Flanders said, "Either that or I can have</p> <p style="text-align: right;">Page 70</p>	<p>1 text.</p> <p>2 Q Yeah, we know. These are responses to texts.</p> <p>3 A Yeah.</p> <p>4 Q My question is: You thought it was awesome</p> <p>5 that a ten-year-old kid was telling racist jokes to his</p> <p>6 dad?</p> <p>7 A I just think it was an involuntary response to</p> <p>8 what he texted me. It was two guys texting back and</p> <p>9 forth.</p> <p>10 Q Reading it now, do you think it's awesome?</p> <p>11 A I don't think it's the best thing for his son,</p> <p>12 but --</p> <p>13 Q Not the worst?</p> <p>14 A I think it was something he heard at school I</p> <p>15 think is what he said.</p> <p>16 Q I don't see that.</p> <p>17 A No, it just says he told him a joke.</p> <p>18 Q February 3rd, 2012. So a few days later.</p> <p>19 There's another text message where, again, Captain</p> <p>20 Flanders is referring to his son, who I think you said was</p> <p>21 about "Wanna hear another" joke his child</p> <p>22 "told me"? And you said, "Yes." And the joke was "What</p> <p>23 do apples and black people have in common? They both hang</p> <p>24 from trees." That's another joke that you guys shared?</p> <p style="text-align: right;">Page 72</p>
<p>1 my dad do it. I told him they can't help it. It's just</p> <p>2 the way they are." And what was your response if you can</p> <p>3 read it?</p> <p>4 A "Very simply put. They're niggers, son."</p> <p>5 Q So do you think that's what Captain Flanders</p> <p>6 should have explained to his child?</p> <p>7 A No. It was clearly a joke.</p> <p>8 Q And Captain Flanders thought it was funny,</p> <p>9 because he said, "LOL. Nice"?</p> <p>10 A Yes.</p> <p>11 MR. PREGON: Objection.</p> <p>12 BY MR. DICELLO:</p> <p>13 Q And then on January 27th, 2012, again Captain</p> <p>14 Flanders is talking about his child, his child just "told</p> <p>15 me a joke: What is long and black? Answer: The line at</p> <p>16 KFC. I wept." What did you think about that joke that</p> <p>17 his son told?</p> <p>18 A Well, it was a joke. And I replied, "Awesome."</p> <p>19 Q You think that's awesome? How old is this kid?</p> <p>20 Do you know? Back in 2012?</p> <p>21 A I don't know. I'm not sure.</p> <p>22 Q So you think it's awesome that a</p> <p>23 is telling racist jokes?</p> <p>24 A It was just a response to Captain Flanders's</p> <p style="text-align: right;">Page 71</p>	<p>1 A Yeah. He has three kids, so I'm not sure --</p> <p>2 Well, would have been the youngest and not able to</p> <p>3 talk and tell jokes. So I'm not sure, just for</p> <p>4 clarification, if it was the oldest child or middle child</p> <p>5 or who it was.</p> <p>6 Q Do you encourage children to be racist?</p> <p>7 A No.</p> <p>8 Q Do you think Captain Flanders should be</p> <p>9 encouraging his children to grow up racist?</p> <p>10 MR. PREGON: Objection.</p> <p>11 A I don't think Captain Flanders is encouraging</p> <p>12 his child. I think his child came and told him a joke</p> <p>13 that they heard.</p> <p>14 BY MR. DICELLO:</p> <p>15 Q In the text below that, you texted Captain</p> <p>16 Flanders on January 26th, 2012, you said, "I'm watching a</p> <p>17 movie with the kids and the little black boy's name is</p> <p>18 Jasper." And Captain Flanders says, "All little black</p> <p>19 boys' names should be Jasper." Do you see that?</p> <p>20 A Yes.</p> <p>21 Q That's another joke?</p> <p>22 A Yes.</p> <p>23 Q Did you think that was funny?</p> <p>24 A I don't know. I just responded.</p> <p style="text-align: right;">Page 73</p>

<p>1 Q Do you think it's a funny joke to just announce</p> <p>2 "I hate niggers"?</p> <p>3 A I think it was a text that I sent --</p> <p>4 Q We know it was a text you sent.</p> <p>5 MR. SMITH: Don't interrupt him. You're having</p> <p>6 fun, but don't interrupt him.</p> <p>7 BY MR. DICELLO:</p> <p>8 Q Are you done with that answer?</p> <p>9 A What?</p> <p>10 Q Do you think announcing "I hate niggers" is a</p> <p>11 funny joke?</p> <p>12 A I think it was two guys bantering back and</p> <p>13 forth.</p> <p>14 Q What about saying "I dislike coloreds"? Is</p> <p>15 that a joke?</p> <p>16 A Yeah. And I think it was two guys just</p> <p>17 bantering back and forth.</p> <p>18 Q Because at the top of MC 3555, that's what you</p> <p>19 say; right? "I dislike coloreds"; correct?</p> <p>20 A That's what the text says, yes.</p> <p>21 Q Do you dislike coloreds?</p> <p>22 A No.</p> <p>23 Q You like them?</p> <p>24 A Yes.</p> <p style="text-align: right;">Page 74</p>	<p>1 telling a joke like that?</p> <p>2 A It was a response to what Captain Flanders had</p> <p>3 sent me.</p> <p>4 Q I understand. We can see it's a response. But</p> <p>5 I'm asking you about the substance of the response. Why</p> <p>6 would you say you love a little kid who is saying it's all</p> <p>7 Martin Luther King's fault that there are black people in</p> <p>8 Wal-Mart in Alabama?</p> <p>9 A I don't know why I responded that way. I think</p> <p>10 it was just an involuntary response. It's guys joking</p> <p>11 back and forth.</p> <p>12 Q Let me ask you about this involuntary response.</p> <p>13 When you respond, you have to type in the word "no," the</p> <p>14 word "way," and then a period.</p> <p>15 A Right.</p> <p>16 Q And then the word "I" and then "love" and then</p> <p>17 "that kid." You had to type all of that in your phone;</p> <p>18 correct?</p> <p>19 A Correct.</p> <p>20 Q So that's not involuntary?</p> <p>21 A Correct.</p> <p>22 Q So this was a voluntary response where you were</p> <p>23 encouraging this little kid to tell racist jokes to his</p> <p>24 dad?</p> <p style="text-align: right;">Page 76</p>
<p>1 Q So why did you say you dislike them?</p> <p>2 A As a joke to get a response from him.</p> <p>3 Q Do you associate yourself with African American</p> <p>4 people?</p> <p>5 A Yes, I do.</p> <p>6 Q And do you have friends who are African</p> <p>7 American?</p> <p>8 A Yes, I do.</p> <p>9 Q Would you tell one of those people that you</p> <p>10 hate niggers?</p> <p>11 A If we were joking back and forth, yes.</p> <p>12 Q MC 3555. Again, it looks like Sergeant</p> <p>13 Flanders is talking about one of his children. If you</p> <p>14 look at his third text on -- or his second text on March</p> <p>15 30th, 2012, he says, "We stopped at a Wal-Mart in</p> <p>16 Birmingham." And his child goes, "there's a lot of black</p> <p>17 people in Alabama. It's all Martin Luther King's fault."</p> <p>18 And you responded, "No way. I love that kid"; right?</p> <p>19 A Yes, that's what the response was.</p> <p>20 Q Do you agree that these text messages you seem</p> <p>21 to be encouraging the racism of a child?</p> <p>22 A Oh, I don't -- No, I don't think I'm</p> <p>23 encouraging the racism of a child.</p> <p>24 Q So why did you say oh, I love that kid after</p> <p style="text-align: right;">Page 75</p>	<p>1 MR. SMITH: Please note my objection. He's not</p> <p>2 in a conversation with a child, it's not his child, and</p> <p>3 you don't even know if what was texted to him is true</p> <p>4 about the child. It could be two adults talking to each</p> <p>5 other. And it's wrong for you to do that. And you know</p> <p>6 it.</p> <p>7 BY MR. DICELLO:</p> <p>8 Q Do you understand the question?</p> <p>9 A Oh, I understand the question. And you're</p> <p>10 going to have to ask it again, I'm sorry, because I</p> <p>11 forgot.</p> <p>12 Q Do you agree that these text messages appear --</p> <p>13 Because you told me this was just an involuntary response.</p> <p>14 And I said, well, it's voluntary. You agreed. So I'm</p> <p>15 saying these text messages appear, do they not, that you</p> <p>16 are encouraging of a child engaging in racist jokes?</p> <p>17 A No, because my conversation is not with Captain</p> <p>18 Flanders's child. My conversation is with Captain</p> <p>19 Flanders. All I said is "I love that kid." It was a</p> <p>20 response to what Captain Flanders sent me.</p> <p>21 Q Okay. And then in response to you saying "No</p> <p>22 way, I love that kid," after learning about what is</p> <p>23 indicated to be a joke that this child told his dad,</p> <p>24 Captain Flanders responds, "Yeah. He's obviously a future</p> <p style="text-align: right;">Page 77</p>

1 leader of this country"; correct?

2 A Correct.

3 Q MC 3556.

4 A Do you mind if we take a quick bathroom break?

5 Q Absolutely.

6 (Recess taken.)

7 BY MR. DICELLO:

8 Q Mr. Sollenberger, we're back on the record

9 after a break. What's a negrometer?

10 A I don't know.

11 Q Well, that's a term you've used, right, a

12 "negrometer"?

13 A Where -- Can you direct me so I can read it in

14 context?

15 Q Sure. Before I direct you to it, is that a

16 term you use, "negrometer"?

17 A I've heard the term before.

18 Q What does it mean?

19 A Like a -- Like you're getting like fed up, like

20 there's a measurement.

21 Q Fed up with what?

22 A With black people.

23 Q Okay. And at MC 3550 -- I missed one of these

24 texts.

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1 A Okay.

2 Q Back on December 18th of 2012 at 7:56 a.m., you

3 sent a text message to somebody saying, "It's way too

4 early for my" -- how do you pronounce that word?

5 A It looks like negrometer.

6 Q "It's way too early for my negrometer to be at

7 96%." What did you mean by that?

8 A Honestly, I don't know.

9 Q Is that used in the same context meaning you're

10 fed up with black people?

11 A I'm not sure who the conversation was with.

12 Q It was with Deputy Horton.

13 A Okay. I think I used that, I think that's a

14 term that Deputy Horton has used before.

15 Q So what did you mean by it?

16 A Without reading the whole entire text

17 conversation, I don't know.

18 Q All right. We're back to now, I'm sorry, I'm

19 going backwards, MC 3556. And just to refresh who we're

20 talking about here, these are in chains of text messages

21 with Captain Flanders. And Captain Flanders says, on it

22 looks like May, it's kind of hard to read, but maybe

23 May 15th or sometime May 2012, if you look at the

24 left-hand side, do you see the number four? Just go up a

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1 couple messages from that. Do you see a time stamp? It

2 looks like May something, 2012? Do you see that?

3 A I'm looking for the number four. Oh, that

4 four.

5 Q Yeah.

6 A I'm sorry.

7 Q And then you go up a couple and you see there's

8 a time stamp that looks like May something, 2012. Can you

9 read that?

10 A Yeah.

11 Q And again, presuming that your text messages

12 are the shaded ones and Captain Flanders's are the white

13 ones, Captain Flanders says "NaphCare is a joke"; correct?

14 A Oh, to the right of it?

15 Q Yep.

16 A Okay.

17 Q Is that what -- And then what was your response

18 to Captain Flanders saying "NaphCare is a joke"?

19 A "I know."

20 Q Who is NaphCare?

21 A The medical personnel inside the jail.

22 Q Did you think they were a joke?

23 A I don't know why I would have replied that.

24 I'm not sure what he was talking about.

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1 Q Well, in general, do you think NaphCare is a

2 joke?

3 A I don't know. I didn't work in the jail when

4 NaphCare was employed there. The only dealings I ever had

5 with NaphCare was they would -- we would have to do

6 transport of inmates when I was out on the road, you know,

7 if somebody had to go to the hospital, and it just seemed

8 like after NaphCare came in, three or four a night, we

9 always had to leave and go, take prisoners to the

10 hospital. So it seemed -- it just seemed like anybody

11 that came in and said, "oh, my toe hurts," and NaphCare

12 would say, "we have to go to the emergency room." So that

13 was really my only dealings with NaphCare.

14 Q Do you know what Captain Flanders is referring

15 to when he describes NaphCare as a joke?

16 A I do not.

17 Q I think that -- your text message that precedes

18 Captain Flanders saying "NaphCare is a joke," and if you

19 need my copy, let me know, but I'm reading it to say that

20 "Landis is fucking listening to the news again. He wants

21 to know why NaphCare left the guy lay there and die". Is

22 that what you sent in May of 2012?

23 A Yes.

24 Q This refers to Robert Richardson, doesn't it?

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<p>1 A I do not know.</p> <p>2 Q Well, the time stamp shows, it looks to me to</p> <p>3 be -- well, it looks to me to be maybe -- well, I'm not</p> <p>4 sure I can read that time stamp there. But do you agree</p> <p>5 it appears to be sometime in May of 2012?</p> <p>6 A It's -- I'm guessing. If your copy is better</p> <p>7 than mine.</p> <p>8 Q Do you know who you would be talking about in</p> <p>9 May of 2012 referring to somebody who was left to lay and</p> <p>10 die at the jail if it wasn't Mr. Richardson?</p> <p>11 MR. PREGON: Objection to form.</p> <p>12 A I don't know.</p> <p>13 BY MR. DICELLO:</p> <p>14 Q Okay.</p> <p>15 A It would have been -- I don't know. Landis at</p> <p>16 the time is the major. So I honestly don't remember</p> <p>17 sending this text message or what it was about. I don't</p> <p>18 know if I was just relaying what Major Landis said to me</p> <p>19 to Captain Flanders.</p> <p>20 Q Let's go back up in this chain. It looks like</p> <p>21 it starts, it says something "Called me. I cooled his</p> <p>22 jets." And then Captain Flanders says, "He needs to</p> <p>23 relax. Glad I went to the SWAT callout." And you</p> <p>24 respond, "Fannin never made contact with the family. He</p> <p style="text-align: right;">Page 82</p>	<p>1 "Fannin never made contact with the family, he just called</p> <p>2 them, the family and the news showed up at the jail"? Do</p> <p>3 you recall that?</p> <p>4 A No, I don't.</p> <p>5 Q And then Captain Flanders said, "I will mention</p> <p>6 calling Harshbarger Monday." Harshbarger is the coroner;</p> <p>7 correct?</p> <p>8 A Yes.</p> <p>9 Q So do you know what Captain Flanders meant when</p> <p>10 he said he's going to mention calling the coroner on</p> <p>11 Monday?</p> <p>12 A No, I don't.</p> <p>13 Q And then you respond, "I don't know why it's ok</p> <p>14 for NaphCare to chemically sedate these people." What did</p> <p>15 you mean by that?</p> <p>16 A I don't know. I know that -- and I could be</p> <p>17 wrong in this text, but I know that the medical care in</p> <p>18 the jail has shifted a lot to mental health. And I know</p> <p>19 that they were -- I don't know if it's NaphCare, I don't</p> <p>20 know if it's mental health, I don't know, but they were</p> <p>21 dispensing -- and I'm just talking -- I'm not speaking</p> <p>22 from fact or anything.</p> <p>23 Q Scuttlebutt?</p> <p>24 A Yeah, that they were dispensing drugs like --</p> <p style="text-align: right;">Page 84</p>
<p>1 just called them. The family and the news showed up at</p> <p>2 the jail." Did I read that correctly?</p> <p>3 A Yes.</p> <p>4 Q And Fannin is the investigator from the</p> <p>5 coroner; correct?</p> <p>6 A Yes.</p> <p>7 Q And it was -- was it Fannin that showed up at</p> <p>8 the jail when Mr. Richardson died?</p> <p>9 A Is that what the report says? I'm not sure.</p> <p>10 Q I think that's what the reports would say.</p> <p>11 A Okay.</p> <p>12 Q Assuming that's what the record would indicate?</p> <p>13 A Okay.</p> <p>14 Q Is that consistent with your memory at all?</p> <p>15 A I don't know. Because I honestly don't know</p> <p>16 who Fannin is. I mean, I know the name and I know he's a</p> <p>17 coroner's investigator, but I'm not sure if I saw him I'd</p> <p>18 be like, "Oh, that's Fannin."</p> <p>19 Q Let me ask you this: Were you involved or</p> <p>20 aware of any other in-custody deaths that occurred in May</p> <p>21 of 2012 other than Mr. Richardson?</p> <p>22 A I don't know. I don't think there was. I</p> <p>23 don't know.</p> <p>24 Q So do you recall what you meant when you said</p> <p style="text-align: right;">Page 83</p>	<p>1 basically, the jail had shifted to more of a mental health</p> <p>2 facility. And so I don't know if that was just my context</p> <p>3 in stuff, but I don't know.</p> <p>4 Q Did you learn at some point in time that</p> <p>5 NaphCare employees tried to administer a shot of Ativan to</p> <p>6 Mr. Richardson in an attempt to calm him down?</p> <p>7 A I don't know. I don't know what Ativan is.</p> <p>8 Q So when you say in your text here in May 2012</p> <p>9 about NaphCare chemically sedating people, were you</p> <p>10 referring to NaphCare's efforts to try to give</p> <p>11 Mr. Richardson an injection to calm him down?</p> <p>12 A It's possible.</p> <p>13 Q And then Captain Flanders says in response,</p> <p>14 "That is kind of crazy." And then you say, "They do it</p> <p>15 all the time." Correct?</p> <p>16 A Correct.</p> <p>17 Q What did you mean when you said NaphCare does</p> <p>18 it all the time? Are you referring to chemically sedating</p> <p>19 people?</p> <p>20 A Again, it's my -- I guess my -- I wouldn't say</p> <p>21 opinion of it, but that's, you know, my understanding.</p> <p>22 And again, I don't know if it's the mental health people</p> <p>23 at NaphCare, whose responsibility it is. But again, like</p> <p>24 I said, the gears of the jail had shifted more to a mental</p> <p style="text-align: right;">Page 85</p>

1 health facility.

2 Q Okay. Who is in, to your knowledge -- You

3 know, this is a section, as you mentioned, these are

4 sections of text chains. There may be text before and

5 text after; correct?

6 A Yes.

7 Q Do you know who is in possession of your iPhone

8 -- it's an iPhone; right?

9 A Yes.

10 Q Do you now who is in possession of your iPhone

11 that has all of these text messages?

12 A Currently, I do not.

13 Q Who is Landis?

14 A He was the major of the jail.

15 Q And when you say "Landis is fucking listening

16 to the news again," do you know what news coverage you're

17 talking about?

18 A No, I don't.

19 Q When you say Landis wants to know why NaphCare

20 let the guy lay there and die, did you have a conversation

21 with Landis?

22 A I don't recall a conversation with Major

23 Landis, but apparently he -- he may have come into the

24 office and said something. So I was repeating it to

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1 Captain Flanders.

2 Q On page 3557, the text message that is in

3 between the numbers three and four --

4 A Yes.

5 Q -- these are text messages with Captain

6 Flanders where Captain Flanders is communicating a story

7 or where one of his kids split another kid in half during

8 a game. It sounds like a football game. Is that your

9 understanding?

10 A Yes.

11 Q Which one of the kids played football?

12 A His middle child.

13 Q And how old was the middle child?

14 A At that time, maybe

15 Q All right. And Captain Flanders references

16 that the kid that his son split in half was black; right?

17 A Yes.

18 Q And apparently, the black kid was down on the

19 field and shaken up by the hit; right?

20 A Yes.

21 Q And then Captain Flanders, after you ask

22 whether Captain Flanders's child punted the black kid when

23 he was done thrashing him, Captain Flanders's response

24 was, "Haha. It was sick. The kid laid on the ground,

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1 ripped his helmet off, and was trying to breathe. He was

2 panicked. Haha...negros," and then a smiley face;

3 correct?

4 A Yes.

5 Q And then you responded, "They all get that same

6 panicked look." Are you referring to negros, all negros?

7 A In reference to his text, yes.

8 Q And so you say, all negros get, "they all"

9 meaning negros, "get that same panicked look." And you

10 say, "I used to love being first on scene of shootings."

11 That's what you said; right?

12 A Yes.

13 Q Because if you're first on scene of a shooting,

14 you can watch a negro get a panicked look after they're

15 shot?

16 A No.

17 Q So why do you love -- in response to you saying

18 all these negros get this panicked look, and then you say

19 I used to love being first on scene at shootings, how does

20 --

21 A Just --

22 Q Let me finish. How does the "I used to love

23 being first on scene at shootings" relate to your previous

24 statement that all negros get that same panicked look?

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1 A Well, Captain Flanders refers to it as negros.

2 I just say "They all get the same panicked look." I can't

3 say that I was referring to negros.

4 Q Well, in fact I just asked that question and

5 you answered it that you were referring to negros.

6 A I'm sorry, then I misunderstood. Because it's

7 kind of a poor copy to read, I thought you were reading

8 it.

9 Q I asked you, I said, when you say "they,"

10 you're referring to the negros?

11 A I'm sorry. I thought you -- Like I said, it

12 was hard to read. I thought you were reading it verbatim

13 and I was just agreeing with you.

14 Q Oh, okay. So you don't know who you're

15 referring to when you say "they" in response to a text

16 message that says, "He was panicked. Haha...negros"?

17 A Yeah. Right. I imagine it was somebody just

18 hit on the ground.

19 Q So why did you used to love being first on

20 scene after shootings?

21 A When I was, it was being an evidence

22 technician. So the first thing you do on scene is grab

23 the camera and start taking pictures.

24 Q And in response to that, Captain Flanders goes

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<p>1 "Haha!! No doubt! Or when u choke their thug asses out." 2 Do you think he's referring to the negros when he says 3 "their thug asses"? 4 A I don't know what he's referring to. 5 Q He goes on to say, "That was funny. That's 6 exactly how he looked"; correct? 7 A Yes. 8 Q You guys are exchanging some pornography on 9 your phones that's blacked out here; correct? 10 A I have no idea what that is. 11 Q All right. MC 3558. You indicate that you're 12 "nigging up some BBQ chicken ranch salad"; right? 13 A Where are we at on the page? 14 Q The top. The very first one. Sorry. 15 A Oh, okay. 16 Q Is that what you said? 17 A Yes. 18 Q What does "nigging up" mean? 19 A I don't know. I guess just an adjective 20 describing the -- what was I eating -- chicken ranch 21 salad. 22 Q So you're texting something to Captain Flanders 23 and you don't know what it means? 24 A Yes.</p> <p style="text-align: right;">Page 90</p>	<p>1 Q What about him caused you to call him that 2 racial slur? 3 A I don't know. Because I'm not sure what 4 reporter I'm even talking about. 5 Q Was it just the fact that he's black? 6 A Yeah, probably so. 7 Q And Captain Flanders thought that was funny? 8 MR. PREGON: Objection. 9 BY MR. DICELLO: 10 Q Correct? 11 MR. PREGON: Objection. 12 A According to the text, it says -- 13 BY MR. DICELLO: 14 Q "LOL"? 15 A "No. LOL." 16 Q What does "LOL" mean? 17 A Laugh out loud. 18 Q Page MC 3563, please. At the bottom, it looks 19 like there's a text between you and Detective Daugherty? 20 A Yes. 21 Q And you're talking about a Detective Miker. 22 Who is Detective Meeker? 23 A He's a detective with the City of Dayton. 24 Q And is he African American?</p> <p style="text-align: right;">Page 92</p>
<p>1 Q And then on -- underneath the number one, 2 underneath that line, you text Captain Flanders, you never 3 see that nigger reporter for Fox -- I'm sorry. "U ever 4 see that nigger reporter from Fox 45? The only thing he's 5 missing is a blunt and a do-rag." Who is the reporter 6 you're referring to? 7 A Honestly, when was this from? 8 Q 2012. 9 A Yeah. I don't -- I don't know. 10 Q I presume the reporter was an African American? 11 A Probably so, yes. 12 Q And so what did you mean when you say the only 13 thing he's missing is a blunt and a do-rag? 14 A A blunt is a cigar filled with marijuana, and a 15 do-rag is the bandanna to wear on his head. 16 Q So why are you -- why are you saying the only 17 thing that this news reporter on Fox, this African 18 American is missing is a blunt and a do-rag? What did you 19 mean by that? 20 A I'm not sure, because I don't remember who I 21 was talking about. 22 Q Why did you refer to this African American news 23 reporter as a nigger? 24 A Just making a joke.</p> <p style="text-align: right;">Page 91</p>	<p>1 A No. 2 Q Does he date African American woman? 3 A No. 4 Q Why do you call him a mud shark? 5 A I do not know. 6 Q What is a mud shark? 7 A "Mud shark" is a term typically for a white 8 woman who dates a black guy or I guess a black guy who 9 would date a white woman. 10 Q And why are they called -- 11 A Vice versa. Interracial dating. 12 Q Why are they called mud sharks? 13 A I don't know. It's just a term. 14 Q On page MC 3575, the paragraph that starts at 15 line 17, the investigator is talking about four comments 16 reviewed with Deputy Connelly during an interview. 17 "Deputy Connelly explained his ex-wife's name is Emily, 18 who voted for President Obama in both presidential 19 elections. I asked Detective Connelly what he took 20 Detective Sollenberger's next comment, quote, that makes 21 her a mud shark, end quote, to mean." Do you recall 22 telling Deputy Connelly that his ex-wife Emily was a mud 23 shark because she voted for President Obama? 24 A I don't recall the text. But I probably did.</p> <p style="text-align: right;">Page 93</p>

<p>1 Q And a mud shark is a woman who would date or 2 have relations with a black man; right? 3 A Yes. 4 Q Did you vote for President Obama? 5 MR. PREGON: Objection. 6 MR. SMITH: You don't have to answer that. 7 MR. DICELLO: Why not? 8 MR. SMITH: You don't get to follow him into 9 the ballot box. 10 You don't have to answer it if you don't want 11 to. 12 BY MR. DICELLO: 13 Q Do you want to answer it? 14 A I don't want to answer it. 15 Q Do you support the president of the United 16 States? 17 MR. SMITH: Objection. 18 A I support the president. 19 BY MR. DICELLO: 20 Q So what about voting for President Obama makes 21 Emily a mud shark? 22 A It was a joke. 23 Q At the time of some of these texts that you had 24 with Captain Flanders, did you understand that Captain</p> <p style="text-align: right;">Page 94</p>	<p>1 A I'm saying, am I -- am I making a joke about 2 two black couples that had a baby or am I making a joke 3 about a white and black couple that made a baby? I don't 4 know. That's why I want to read it in context, so if I'm 5 referring to somebody in particular, I'd be able to 6 explain it. 7 Q White babies aren't mud babies; correct? 8 A Correct. 9 Q Only black babies are mud babies; true? 10 A In the context of a joke, yes. 11 Q Or if a baby is half white half black, that's a 12 mud baby, too; true? 13 A For the context of the joke, yes. 14 Q And on MC 3581, you're exchanging texts again 15 with Captain Flanders where you're talking about some 16 people can get together and they can make mud babies 17 together; correct? 18 A Yes. 19 Q MC 3588. I think this is another -- I think 20 the document would show this is another text with Captain 21 Flanders, and this is about almost three weeks before 22 Mr. Richardson died at the jail. And you say, "I think 23 Brandon Harrison works out at the Greene, but I can't tell 24 if it's him cause they all look alike." What did you</p> <p style="text-align: right;">Page 96</p>
<p>1 Flanders was the sergeant of the Inspectional Services 2 Unit? 3 A Yes. 4 Q What is the Inspectional Services Unit, if you 5 know? 6 A The -- It's the Internal Affairs. 7 Q And the Inspectional Services Unit is 8 responsible for investigating alleged violations of jail 9 rules committed against detainees; correct? 10 A Yes. 11 Q Page MC 3581. What's a mud baby? Are those 12 black kids or are those kids that are half black and half 13 white? 14 A Where are we reading? 15 Q Before we get to the text, I'm just asking you: 16 What's a mud baby? 17 A I'm assuming it's a black child. 18 Q Well, it's a term you use; correct? 19 A Well, I know. But I would have to read it in 20 context. 21 Q Well, you knew what these words meant before 22 you texted them; correct? 23 A Well, yeah, I sent them. 24 Q Right.</p> <p style="text-align: right;">Page 95</p>	<p>1 mean? Who all look alike? 2 A It would have been a joke about Brandon 3 Harrison being black. 4 Q Who is Brandon Harrison? 5 A He's a black deputy. 6 Q And Captain Flanders responds and says, "But he 7 talks white"; right? 8 A Yes. 9 Q On page MC 3591 of this investigation, this is 10 more text messages between you and Captain Flanders. This 11 is -- I think we looked at this before, but this is an 12 extension, this is where you're talking about niggling up 13 some barbecue chicken ranch salad; right? 14 A Yes. 15 Q And then it looks like there was a photograph 16 or something sent, maybe. It says it's pornography, but 17 it's blocked out. And you said "he be gettin his kool 18 aid." Do you know what you were referring to there? 19 A I have no idea. 20 Q And you say, "I think he was going to smack 21 that white bitch." Do you know what you're talking about 22 there? 23 A I have no idea. 24 Q All right. The text that is, it looks like</p> <p style="text-align: right;">Page 97</p>

<p>1 maybe August -- I'm sorry, it's hard to tell the date, but</p> <p>2 you say "Brad and his BFF rich reeser. Who's the little</p> <p>3 nigger on the left." Do you know what you're talking</p> <p>4 about there?</p> <p>5 A I have no idea.</p> <p>6 Q So apparently in this text, you don't know the</p> <p>7 identity of somebody; correct?</p> <p>8 A Correct.</p> <p>9 Q But it's clear to you that the person is</p> <p>10 little; correct?</p> <p>11 A Yes.</p> <p>12 Q And the person is black; right?</p> <p>13 A Yes.</p> <p>14 Q And so you're just referring to a black person</p> <p>15 who you don't know as a nigger?</p> <p>16 A Yes.</p> <p>17 Q And this is a joke, too?</p> <p>18 A Yes.</p> <p>19 Q What's funny about that?</p> <p>20 A The terminology.</p> <p>21 Q The fact that you're referring to black people</p> <p>22 as niggers is what you think is funny?</p> <p>23 A Yes.</p> <p>24 Q So you were confronted with all of these text</p> <p style="text-align: right;">Page 98</p>	<p>1 interview where you were confronted with a printout of the</p> <p>2 text messages that investigators at the sheriff's office</p> <p>3 actually came into possession of your phone?</p> <p>4 A Yes.</p> <p>5 Q And that investigators did a forensic analysis</p> <p>6 on your phone. Were you aware of that?</p> <p>7 A Yeah, I believe that -- Yeah, at some point</p> <p>8 they did, yes.</p> <p>9 Q And by February of 2015, so within two months</p> <p>10 of you first being interviewed, at least according to the</p> <p>11 reports, the Montgomery County Sheriff's Office performed</p> <p>12 a forensic analysis of your phone and confirmed that all</p> <p>13 the text messages that were printed out in the PDFs that</p> <p>14 you were confronted with were in fact the same text</p> <p>15 messages that existed in the operating system on the</p> <p>16 phone. Did you become aware of that?</p> <p>17 A Yes.</p> <p>18 Q But before that forensic analysis had been</p> <p>19 done, when you were confronted with the PDFs of the text</p> <p>20 messages, you tried to suggest and accuse your wife, your</p> <p>21 ex-wife, of having falsified these text messages, didn't</p> <p>22 you?</p> <p>23 A Yes.</p> <p>24 Q That was a false accusation you made against</p> <p style="text-align: right;">Page 100</p>
<p>1 messages by IA at some point; correct?</p> <p>2 A Yes.</p> <p>3 Q And I think today you testified that you've</p> <p>4 never denied they were your text messages? Did you say</p> <p>5 that at the beginning of today's deposition?</p> <p>6 A Yes. I guess.</p> <p>7 Q Well, you understand at the time you were</p> <p>8 interviewed by, was it Detective Cavender who interviewed</p> <p>9 you?</p> <p>10 A Sergeant Parin.</p> <p>11 Q Sergeant Parin interviewed you back in December</p> <p>12 of 2014. First, you were represented by counsel when you</p> <p>13 were interviewed; correct?</p> <p>14 A Yes.</p> <p>15 Q And at the time you were interviewed in</p> <p>16 December of 2014, the whereabouts of your phone was</p> <p>17 unknown to you; is that fair?</p> <p>18 A Yes.</p> <p>19 Q And did you learn that at some time after your</p> <p>20 interview where you were confronted with a printout of</p> <p>21 these text messages, that's what happened at the</p> <p>22 interview?</p> <p>23 A Yes.</p> <p>24 Q So did you learn at some time after this</p> <p style="text-align: right;">Page 99</p>	<p>1 her; correct?</p> <p>2 A At the time --</p> <p>3 MR. PREGON: Objection. Will you give me a</p> <p>4 continuing on this one, too?</p> <p>5 MR. DICELLO: Sure.</p> <p>6 A I'm sorry, answer?</p> <p>7 BY MR. DICELLO:</p> <p>8 Q Yeah, go ahead.</p> <p>9 A No. At the time, the only thing I was ever</p> <p>10 provided with during the course of the investigation was</p> <p>11 the photocopied PDF file. I never -- I never had the</p> <p>12 opportunity to analyze any of it to determine the validity</p> <p>13 of it, and I never -- I never wanted to sit there and say,</p> <p>14 "yes, these are mine," not knowing what the whole --</p> <p>15 without having everything there to examine it and</p> <p>16 determine it. Because she released -- this information</p> <p>17 was released ten days prior to our divorce trial resulting</p> <p>18 in the custody battle.</p> <p>19 Q Yep. I mean, Detective Sollenberger, were you</p> <p>20 trying to blame your wife for these text messages?</p> <p>21 MR. SMITH: Let me just intercede for a moment,</p> <p>22 Counsel.</p> <p>23 MR. DICELLO: If you have an objection as to</p> <p>24 form or foundation, you can state it. But I would --</p> <p style="text-align: right;">Page 101</p>

1 MR. SMITH: You have to wait and listen to me.
2 MR. DICELLO: I mean, we're not allowed to have
3 speaking objections. So if you want to go off the record
4 and talk, fine.
5 MR. SMITH: I'll be happy to talk to you either
6 on it or off of it. I'd rather do it off.
7 MR. DICELLO: Then let's go off the record and
8 you and I can have a conversation.
9 (Discussion held off the record.)
10 BY MR. DICELLO:
11 **Q Back in December of 2014, were you trying to**
12 **blame your wife for these text messages?**
13 A In 2014, the only thing I had was PDF
14 photocopies of the text messages. I never had the phone.
15 I had not been in possession of that phone in years. I
16 was unfamiliar with the text messaging, the conversation
17 that was taking place, had it been two, three years prior.
18 I was ten days prior to starting a divorce trial and
19 custody battle that had been ongoing where she had been
20 tormenting me for three years making false accusations,
21 filing false state and police reports, filing false Mercer
22 County police reports, calling the archdiocese of
23 Cincinnati, trying everything she could do to get me
24 arrested, get me fired, discredit me, everything.

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1 So at the time when I received this information
2 in preparing for my most important thing in my life, was
3 my custody battle for my children, which I won, I looked
4 at these, I was not familiar with these, I did not have
5 the phone to examine it, you know, and my only thought at
6 the time was she was doing this to try to win custody of
7 the kids.
8 **Q This report that we're looking at that is**
9 **Exhibit 5 documents an interview and discussion that you**
10 **had with Sergeant Parin when you had counsel present on**
11 **December 19th, 2014; correct?**
12 A I had an OLC representative. It wasn't an
13 attorney, but yes.
14 **Q Is that Mr. Mark Scranton?**
15 A Yes.
16 **Q And do you recall that meeting generally?**
17 A Yes.
18 **Q And had you conducted those kinds of interviews**
19 **and meetings in connection with your service as an IA**
20 **detective?**
21 A Yes.
22 **Q And is the purpose of the report to accurately**
23 **and truthfully reflect what took place during the meeting?**
24 A Yes.

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1 **Q And do you think that's what Exhibit 5 does, of**
2 **your meeting?**
3 A Yes.
4 **Q And on page MC 3597 starting at line 19, it**
5 **reads, "Sergeant Parin asked Detective Sollenberger if he**
6 **recalled any of the text messages." So do you agree that**
7 **that question was asked of you?**
8 A Yes.
9 **Q Reading on, "Detective Sollenberger stated he**
10 **looked through all of the text messages and some of them**
11 **do not make any sense, and he thinks things have been**
12 **altered, changed or deleted." Do you think that's**
13 **accurate of what you said back in December of 2014 before**
14 **--**
15 A Yes.
16 **Q -- your phone was turned over for a forensic**
17 **examination?**
18 A Yes.
19 **Q Reading on, "When asked what had been altered,**
20 **changed or deleted, Detective Sollenberger stated he did**
21 **not recall sending or receiving any of the derogatory**
22 **phrases." Is that what you said in December of 2014?**
23 A Yes.
24 **Q "Detective Sollenberger stated that documents**

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1 **are presented as a PDF file and could be easily altered.**
2 **Detective Sollenberger believes that his estranged wife,**
3 **Jennifer Sollenberger, sent the text messages that she**
4 **created to the NAACP to discredit him prior to their**
5 **divorce trial." Is that what you said during the meeting?**
6 A Yes.
7 **Q On page MC 3598, this document is a**
8 **conversation during an interview where you were confronted**
9 **with the fact that Deputy Connelly had acknowledged**
10 **sending and receiving some of the text messages. Is that**
11 **what it's documenting in that top paragraph there?**
12 A What was your question again?
13 **Q There was a conversation where "Sergeant Parin**
14 **asked Detective Sollenberger if Deputy Connelly recalled**
15 **the text conversation, would he be inaccurate, and your**
16 **response was, 'yeah, I mean, I don't recall.' When asked**
17 **if Deputy Connelly was lying and was insubordinate the**
18 **previous day during his interview regarding this incident,**
19 **Detective Sollenberger stated Deputy Connelly was**
20 **mistaken." Do you remember saying that Deputy Connelly**
21 **must be mistaken about receiving and sending text messages**
22 **with you?**
23 A Yes.
24 **Q Why did you think that Deputy Connelly was**

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<p>1 mistaken?</p> <p>2 A Because at the time of the interview, there was</p> <p>3 no other information available. I remember that when</p> <p>4 Sergeant Parin asked me, he said, "If Connelly came in</p> <p>5 here and said this, would he be lying?" And I told him "I</p> <p>6 don't know what Connelly came in here and said, so I can't</p> <p>7 answer that question."</p> <p>8 Q On the same page, there's a reference to a text</p> <p>9 message that I couldn't either read or didn't see, but a</p> <p>10 text message in which you are quoted as saying, quote, "So</p> <p>11 how many of the niggers are asking the judges to set them</p> <p>12 free since Barry won," end quote, and that was reported as</p> <p>13 being sent by you with the reply of Deputy Connelly being</p> <p>14 "LOL. I dunno. I'm stuck at CSB again." I presume</p> <p>15 you're going to say you don't remember sending that text</p> <p>16 message?</p> <p>17 A I don't specifically remember, no.</p> <p>18 Q Who is Barry?</p> <p>19 A It would have been -- probably would have been</p> <p>20 making reference to the election.</p> <p>21 Q And so who is Barry?</p> <p>22 A Barack Obama.</p> <p>23 Q And so what did you mean how many of the</p> <p>24 niggers are asking the judges to set them free since our</p> <p style="text-align: right;">Page 106</p>	<p>1 A I --</p> <p>2 MR. PREGON: With IA?</p> <p>3 BY MR. DICELLO:</p> <p>4 Q Do you understand Captain Flanders was</p> <p>5 interviewed by IA in connection with this text message --</p> <p>6 A Yes.</p> <p>7 Q Fair to call it a scandal?</p> <p>8 MR. PREGON: Objection.</p> <p>9 A Investigation.</p> <p>10 BY MR. DICELLO:</p> <p>11 Q Were you aware that Captain Flanders went in to</p> <p>12 be interviewed by IA in connection with this investigation</p> <p>13 on the text messages?</p> <p>14 A Yes.</p> <p>15 Q And you and Captain Flanders got together</p> <p>16 before you were interviewed; true?</p> <p>17 A I don't think we did.</p> <p>18 Q Well, you guys had the same story during your</p> <p>19 interviews; true?</p> <p>20 MR. PREGON: Objection.</p> <p>21 BY MR. DICELLO:</p> <p>22 Q About your wife doctoring these text messages?</p> <p>23 A It was common knowledge of the stuff that she</p> <p>24 has done to me and that it was ten days prior to my</p> <p style="text-align: right;">Page 108</p>
<p>1 president won the election?</p> <p>2 MR. PREGON: Objection.</p> <p>3 A I don't know what I meant.</p> <p>4 BY MR. DICELLO:</p> <p>5 Q And you use the term "nignog"? Is that a term</p> <p>6 you use, Mr. Sollenberger?</p> <p>7 A I've heard it before. Is it in a text message?</p> <p>8 Q I'm asking you if that's a term you use when</p> <p>9 you refer to black people, along with the term "nigger"?</p> <p>10 A I have, yes.</p> <p>11 Q And is that a derogatory term?</p> <p>12 A Yes.</p> <p>13 Q Is "nigger" a derogatory term?</p> <p>14 A Yes.</p> <p>15 Q You agree that these text messages that we've</p> <p>16 been going through are authentic; true?</p> <p>17 A Yes.</p> <p>18 Q They have not been fabricated by your wife or</p> <p>19 anyone else, have they?</p> <p>20 A Again, I still have not received the phone or</p> <p>21 anything to do our own forensic analyzation of the phone,</p> <p>22 so I would merely be speculating.</p> <p>23 Q Did you communicate with Captain Flanders</p> <p>24 before Captain Flanders went in for his interview?</p> <p style="text-align: right;">Page 107</p>	<p>1 divorce trial starting.</p> <p>2 Q Are you aware that Captain Flanders went into</p> <p>3 IA and suggested to IA that your ex-wife had doctored up</p> <p>4 these text messages?</p> <p>5 A After I read the investigation, yes.</p> <p>6 Q And you're aware that Captain Flanders's</p> <p>7 position is that the two of you didn't exchange any</p> <p>8 racially derogatory text messages, that it was your wife</p> <p>9 that did this; right?</p> <p>10 MR. PREGON: Objection.</p> <p>11 Go ahead.</p> <p>12 A Yeah, I guess that was in the report. It's</p> <p>13 been a while since I've read it.</p> <p>14 BY MR. DICELLO:</p> <p>15 Q And Captain Flanders was found to have</p> <p>16 purposely lied during his interview with IA in that</p> <p>17 regard; true? Are you aware of that?</p> <p>18 MR. PREGON: Objection.</p> <p>19 A Yes.</p> <p>20 BY MR. DICELLO:</p> <p>21 Q Is that a finding that was made against you,</p> <p>22 that you were purposefully lying in the interview, or no?</p> <p>23 A I believe my insubordination charge said</p> <p>24 because I lied when I said that Joe Connelly lied.</p> <p style="text-align: right;">Page 109</p>

1 **Q** Yep. Okay.

2 **Did you challenge your termination**

3 **administratively?**

4 A Yes, I did.

5 **Q** **And what was the outcome of that?**

6 A They upheld the termination.

7 **Q** **What was the finding of the arbitrator?**

8 A That I should have been fired. I don't know

9 the specific wording.

10 **Q** **Your position with the arbitrator was that you**

11 **were trying to persuade the arbitrator that it was your**

12 **wife who had doctored these text messages to put all these**

13 **racial slurs in there?**

14 MR. SMITH: Objection. There's a record of

15 these proceedings.

16 Go ahead and answer.

17 A That was one of the -- Yes, that was one of the

18 issues that was brought up.

19 BY MR. DICELLO:

20 **Q** **In fact, that was the position that you took to**

21 **try to keep your job, was to try to prove to the**

22 **arbitrator that you didn't do this, your wife did it;**

23 **correct?**

24 A Again, I've never received the phone to do our

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1 own forensic analyzation of it to determine -- there was

2 some of the text messages that just didn't make sense, and

3 that was one of the issues that was brought up to the

4 arbitrator.

5 **Q** **And you're saying one of the issues that was**

6 **brought up. But that was actually your position that you**

7 **were trying to convince the arbitrator of; correct?**

8 MR. PREGON: Objection.

9 A You would have to talk to the attorney that

10 represented me during the arbitration and ask him, I

11 guess, what the position was.

12 BY MR. DICELLO:

13 **Q** **Who was that?**

14 A It's with the Ohio Labor Counsel. I can't

15 remember his name offhand. Paul -- Paul something.

16 **Q** **Is that somebody that the union provided for**

17 **you?**

18 A Yes.

19 **Q** **Why did you challenge your termination?**

20 A Because I didn't think it was right that I was

21 terminated.

22 **Q** **Why not?**

23 A Because I was an 18-year employee with the

24 Montgomery County Sheriff's Office, that there has never

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1 been any discipline in my file, I've never been

2 disciplined, I've only received accommodations, and I

3 don't believe that private communication between two

4 individuals, it never reflected on my ability to do my job

5 and perform in an unbiased manner for the citizens of

6 Montgomery County.

7 **Q** **You understand why the text messages seem to**

8 **tell a very different story? Or do you?**

9 A I'm sorry, is that a statement or a question?

10 **Q** **I'm asking you. You just stated your case kind**

11 **of. I'm not -- I think what I heard is I'm not biased;**

12 **right?**

13 A Right. I think that regardless of what was

14 said between two individuals off duty, regardless of what,

15 you know, my private thoughts are, it never, ever

16 reflected in my work or my ability to do my job.

17 **Q** **How do you know that?**

18 A Because I know that.

19 **Q** **How?**

20 A Because. I treated everyone fairly, equally.

21 I always delivered an unbiased opinion on stuff. I've

22 never received any complaints or anything against anybody.

23 MR. DICELLO: Are you going to have any

24 questions?

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1 MR. PREGON: No.

2 MR. DICELLO: Do you know if Carrie is going to

3 have any questions?

4 MS. BAUTE: No.

5 MR. DICELLO: If you want to take a break, I'm

6 just going to review my notes.

7 (Discussion held off the record.)

8 BY MR. DICELLO:

9 **Q** **Mr. Sollenberger, I don't have anymore**

10 **questions for you.**

11 A Okay.

12 MR. SMITH: He'll review it and sign it.

13 ---

14 (Signature not waived.)

15 ---

16 And, thereupon, the deposition was concluded at

17 3:45 p.m.

18 ---

19

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<p>1 December 22, 2015</p> <p>2 Dear Mr. Sollenberger,</p> <p>3 You have chosen to read and sign your transcript.</p> <p>4 Please do not mark on the transcript. Any</p> <p>5 corrections/changes you may desire to make in your</p> <p>6 testimony should be typewritten or printed on the errata</p> <p>7 sheet at the end of testimony, giving the page number,</p> <p>8 line number and desired correction/change. After you have</p> <p>9 read the transcript, sign your name on the correction</p> <p>10 sheet and where indicated at the close of testimony before</p> <p>11 a notary public.</p> <p>12 The Rules of Civil Procedure allow thirty days for</p> <p>13 you to read and sign. Please return the signature page</p> <p>14 and errata sheet to Whitney Layne, 6723 Cooperstone Drive,</p> <p>15 Dublin, Ohio 43017 within that time. Failure to do so in</p> <p>16 the allotted time will result in your transcript being</p> <p>17 used as though read and signed by you.</p> <p>18</p> <p>19 Sincerely,</p> <p>20 _____</p> <p>21 Whitney Layne</p> <p>22 Professional Reporter</p> <p>23</p> <p>24 Cc:</p> <p>25 Nick DiCello</p> <p>26 Carrie Starts</p> <p>27 Jamey Pregon</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p> <p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> 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<p>1 State of _____</p> <p>2 County of _____</p> <p>3 I, MICHAEL SOLLENBERGER, do hereby certify that I</p> <p>4 have read the foregoing transcript of my deposition given</p> <p>5 on December 8, 2015; that together with the correction</p> <p>6 page attached hereto noting changes in form or substance,</p> <p>7 if any, it is true and correct.</p> <p>8 _____</p> <p>9 MICHAEL SOLLENBERGER</p> <p>10 I do hereby certify that the foregoing transcript</p> <p>11 of the deposition of MICHAEL SOLLENBERGER was submitted to</p> <p>12 the witness for reading and signing; that after he had</p> <p>13 stated to the undersigned Notary Public that he had read</p> <p>14 and examined his deposition, he signed the same in my</p> <p>15 presence on the ____ day of _____, 2015.</p> <p>16 _____</p> <p>17 Notary Public</p> <p>18 My Commission Expires on _____</p> <p>19 - - -</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p> <p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> <p>94</p> <p>95</p> <p>96</p> <p>97</p> <p>98</p> <p>99</p> <p>100</p> <p>101</p> <p>102</p> <p>103</p> <p>104</p> <p>105</p> <p>106</p> <p>107</p> <p>108</p> <p>109</p> <p>110</p> <p>111</p> <p>112</p> <p>113</p> <p>114</p> <p>115</p> <p>116</p> <p>117</p> <p>118</p> <p>119</p> <p>120</p> <p>121</p> <p>122</p> <p>123</p> <p>124</p> <p>125</p> <p>126</p> <p>127</p> <p>128</p> <p>129</p> <p>130</p> <p>131</p> <p>132</p> <p>133</p> <p>134</p> <p>135</p> <p>136</p> <p>137</p> <p>138</p> <p>139</p> <p>140</p> <p>141</p> <p>142</p> <p>143</p> <p>144</p> <p>145</p> <p>146</p> <p>147</p> <p>148</p> <p>149</p> <p>150</p> <p>151</p> <p>152</p> <p>153</p> <p>154</p> <p>155</p> <p>156</p> <p>157</p> <p>158</p> <p>159</p> <p>160</p> <p>161</p> <p>162</p> <p>163</p> <p>164</p> <p>165</p> <p>166</p> <p>167</p> <p>168</p> <p>169</p> <p>170</p> <p>171</p> <p>172</p> <p>173</p> <p>174</p> <p>175</p> <p>176</p> <p>177</p> <p>178</p> <p>179</p> <p>180</p> <p>181</p> <p>182</p> <p>183</p> <p>184</p> <p>185</p> <p>186</p> <p>187</p> <p>188</p> <p>189</p> <p>190</p> <p>191</p> <p>192</p> <p>193</p> <p>194</p> <p>195</p> <p>196</p> <p>197</p> <p>198</p> <p>199</p> <p>200</p> <p>201</p> <p>202</p> <p>203</p> <p>204</p> <p>205</p> <p>206</p> <p>207</p> <p>208</p> <p>209</p> <p>210</p> <p>211</p> <p>212</p> <p>213</p> <p>214</p> <p>215</p> <p>216</p> <p>217</p> <p>218</p> <p>219</p> <p>220</p> <p>221</p> <p>222</p> <p>223</p> <p>224</p> <p>225</p> <p>226</p> <p>227</p> <p>228</p> <p>229</p> <p>230</p> <p>231</p> <p>232</p> <p>233</p> <p>234</p> <p>235</p> <p>236</p> <p>237</p> <p>238</p> <p>239</p> <p>240</p> <p>241</p> <p>242</p> <p>243</p> <p>244</p> <p>245</p> <p>246</p> <p>247</p> <p>248</p> <p>249</p> <p>250</p> <p>251</p> <p>252</p> <p>253</p> <p>254</p> <p>255</p> <p>256</p> <p>257</p> <p>258</p> <p>259</p> <p>260</p> <p>261</p> <p>262</p> <p>263</p> <p>264</p> <p>265</p> <p>266</p> <p>267</p> <p>268</p> <p>269</p> <p>270</p> <p>271</p> <p>272</p> <p>273</p> <p>274</p> <p>275</p> <p>276</p> <p>277</p> <p>278</p> <p>279</p> <p>280</p> <p>281</p> <p>282</p> <p>283</p> <p>284</p> <p>285</p> <p>286</p> <p>287</p> <p>288</p> <p>289</p> <p>290</p> <p>291</p> <p>292</p> <p>293</p> <p>294</p> <p>295</p> <p>296</p> <p>297</p> <p>298</p> <p>299</p> <p>300</p> <p>301</p> <p>302</p> <p>303</p> <p>304</p> <p>305</p> <p>306</p> <p>307</p> <p>308</p> <p>309</p> <p>310</p> <p>311</p> <p>312</p> <p>313</p> <p>314</p> <p>315</p> <p>316</p> <p>317</p> <p>318</p> <p>319</p> <p>320</p> <p>321</p> <p>322</p> <p>323</p> <p>324</p> <p>325</p> <p>326</p> <p>327</p> <p>328</p> <p>329</p> <p>330</p> <p>331</p> <p>332</p> <p>333</p> <p>334</p> <p>335</p> <p>336</p> <p>337</p> <p>338</p> <p>339</p> <p>340</p> <p>341</p> <p>342</p> <p>343</p> <p>344</p> <p>345</p> <p>346</p> <p>347</p>	

1 TO THE REPORTER:

2 I have read the entire transcript of my deposition taken
3 on the ____ day of _____, 20__, or the same has been
4 read to me. I request that the following changes be
5 entered upon the record for the reasons indicated.

6

7 Page Line Correction and reason therefore

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23 Date_____Signature_____

24

WHITNEY LAYNE
Professional Reporter

6723 Cooperstone Drive
Dublin, Ohio 43017

Phone (614) 309-1669

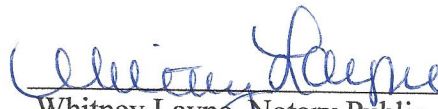
STATEMENT OF FAILURE OF WITNESS TO SIGN DEPOSITION

I, Whitney Layne, state that I was the notary public before whom the deposition of Michael Sollenberger was taken in the case entitled Beyoglids v. Plummer, et al.

I further state that the fully transcribed deposition of said witness was made available to witness for reading, examination, and signing on December 28, 2015. The witness had 30 days to do so. As of today the witness has not read, examined and signed the deposition.

Therefore, the deposition is submitted with the signature of said notary public on it in lieu of the signature of the witness, Michael Sollenberger.

Dated: July 7, 2016


Whitney Layne, Notary Public
before whom the deposition was taken.

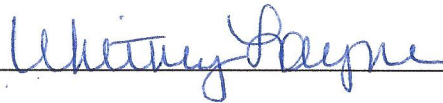
CERTIFICATE

State of Ohio :

County of Franklin:

I, Whitney Layne, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named MICHAEL SOLLENBERGER was by me duly sworn to testify to the whole truth in the cause aforesaid; that the testimony was taken down by me in stenotype in the presence of said witness; afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified.

IN WITNESS WHEREOF, I have set my hand and affixed my seal of office at Dublin, Ohio, on this 22nd day of Decemer, 2015.



Whitney Layne, Notary Public

In and for the State of Ohio

My Commission expires May 4, 2020

A					
<p>a.m 79:2</p> <p>ability 46:4,10 112:4,16</p> <p>able 11:21 13:15 42:15,16 73:2 96:5</p> <p>Absolutely 78:5</p> <p>academy 15:4,5</p> <p>acceptable 22:6</p> <p>accommodations 112:2</p> <p>accurate 104:13</p> <p>accurately 103:22</p> <p>accusation 100:24</p> <p>accusations 102:20</p> <p>accuse 100:20</p> <p>acknowledged 46:6 105:9</p> <p>act 47:22 48:1,4</p> <p>acts 47:20</p> <p>actual 40:14</p> <p>add 62:24</p> <p>address 7:5</p> <p>adjective 90:19</p> <p>administer 85:5</p> <p>administratively 110:3</p> <p>Administrator 1:4</p> <p>adults 77:4</p> <p>advance 27:7</p> <p>Affairs 13:12,13 18:11 19:12 20:11 21:16 23:24 24:3 44:22 48:19 95:6</p> <p>affiliated 53:2</p> <p>affixed 117:17</p> <p>aforesaid 117:9</p> <p>African 5:14 75:3,6 91:10,17,22 92:24 93:2</p> <p>agency 15:22</p> <p>agree 37:4,7,10 47:16 56:23 59:11 59:16 75:20 77:12 82:4 104:6 107:15</p> <p>agreed 34:18 77:14</p> <p>agreeing 89:13</p> <p>agreement 10:16</p> <p>ahead 35:4 42:11 54:9 101:8 109:11 110:16</p> <p>AHEARN 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